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BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#35 MAY 10, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

May 10, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF NEW SOFTWARE AND SERVICES AGREEMENT
WITH ATLAS DATABASE SOFTWARE CORPORATION
dba ATLAS DEVELOPMENT CORPORATION**

(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

CIO RECOMMENDATION: (X) APPROVE

SUBJECT:

Request approval to enter into a software and services agreement with Atlas Database Software Corporation to supersede and replace County Agreement Numbers H-701820 and H-207543.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Director of the Department of Public Health (DPH), or his designee, to execute the Software and Services Agreement (Exhibit I) with Atlas Database Software Corporation dba ATLAS Development Corporation (Atlas), effective on Board approval for an initial term of seven years with an option to add three additional terms for a total maximum obligation of \$3,129,703.50, 100 percent offset by the Centers for Disease Control and Prevention (CDC) Public Health Preparedness and Response for Bioterrorism Grant Number 5U90TP917012.
2. Authorize the Director of DPH, or his designee, to execute amendments to the Software and Services Agreement extending the initial term of the Software and

Services Agreement for up to three (3) additional and consecutive twelve (12) month periods, for a total term of up to ten (10) years, at the rates for maintenance, support, and hosting set forth on Exhibit C (Price and Schedule of Payments) to the Software and Services Agreement, and making related changes to the Software and Services Agreement in connection with such extensions.

3. Authorize the Director of DPH, or his designee, to execute all other amendments to the Software and Services Agreement and the County's project director, or such person's designee, to execute all change orders to the Software and Services Agreement, in each case, as described in Exhibit II.
4. Authorize termination of County Agreement Number H-701820 and County Agreement Number H-207543, with Atlas, with such termination to be effective concurrently with the effective date of the Software and Services Agreement and with such agreements to be superseded and replaced in their entirety by the Software and Services Agreement.
5. Authorize the Director of DPH, or his designee, to execute (a) one or more assignment documents effectuating the transfer of the County's rights in the property to be transferred under the Software and Services Agreement, and (b) such forms as are required to make the County a beneficiary under Atlas's source code escrow agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Visual Confidential Morbidity Reporting Software (vCMR Software) is used by DPH's Acute Communicable Disease Control Unit (ACDC) as its advanced electronic reporting system for communicable diseases (CD). The vCMR Software allows management of the 'life-cycle' of a disease incident or outbreak from its report to DPH through its final resolution. It offers tracking and managerial oversight of all CD case reports and has been configured to electronically parse case and lab reports to other programs within DPH.

Approval of the first recommendation will allow the Director of DPH, or his designee, to execute the Software and Services Agreement, substantially similar to Exhibit I, with Atlas, which will, in summary, transfer any and all of County's rights in the vCMR Software and the servers currently being used to host the vCMR Software identified in Exhibit P (Transferred Servers) of the Software and Services Agreement, in exchange for the consideration described in the Contracting Process section of this letter. As further described in the Contracting Process, Background section of this letter, DPH is recommending this transfer to reduce the burden of monitoring its existing marketing agreement with Atlas for the vCMR Software (County Agreement Number H-207543), as well as more effectively control the costs of maintaining, supporting, and hosting the full

vCMR Software and the other software products described on Exhibit D (Description of System Software) to the Software and Services Agreement (collectively, vCMR System) in the coming years.

The Software and Services Agreement will additionally grant the County a perpetual, royalty free license to use the vCMR System and engage Atlas to provide ongoing maintenance, support, and hosting of the vCMR System, as well as as-needed other professional services, for an initial term of seven (7) years.

Approval of the second recommendation will allow the Director of DPH, or his designee, to execute future amendments to the Software and Services Agreement extending the initial term of the Software and Services Agreement for up to three (3) additional and consecutive twelve (12) month optional terms, for a total term of up to ten (10) years. These future amendments will allow for the continued maintenance, support, and hosting of the vCMR System.

Approval of the third recommendation will allow (a) the Director of DPH, or his designee, to execute all other amendments to the Software and Services Agreement as described in Exhibit II to this letter, and (b) the County's project director under the Software and Services Agreement, or such person's designee, to execute all change orders to the Software and Services Agreement as described in Exhibit II to this letter. These amendments and change orders may be necessary to continue enhancing vCMR to meet critical needs of the vCMR System users as well as to meet the federal CDC initiatives that promote the use of data and information system standards to advance development of integrated surveillance systems.

Approval of the fourth recommendation will terminate the existing County agreements with respect to the vCMR System, County Agreement Number H-701820 and County Agreement Number H-207543, which are scheduled to expire August 9, 2011 and June 30, 2011, respectively. Such termination will be effective concurrently with the effective date of the Software and Services Agreement, with such Software and Services Agreement superseding and replacing County Agreement Number H-701820 and County Agreement Number H-207543 in their entirety.

Approval of the fifth recommendation will allow the Director of DPH, or his designee, to execute (a) one or more assignment documents effectuating the transfer of the County's rights in the property to be transferred under the Software and Services Agreement, and (b) such forms as are required to make the County a beneficiary under Atlas's source code escrow agreement. Additional assignment documents may be necessary, for example, to file notice of the transfer with the United States Copyright Office.

Implementation of Strategic Plan Goals

The recommended actions support Goal 1, Operational Effectiveness; Goal 4, Health and Mental Health; and Goal 5, Public Safety, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

During the initial seven (7) year term of the Software and Services Agreement: (a) \$280,000 is allocated to maintaining the vCMR System; (b) \$595,000 is allocated to supporting the vCMR System; (c) \$1,484,000 is allocated to hosting the vCMR Software and other software products; (d) \$1,399,685 is allocated to the pool of dollars that may be used to engage Atlas to provide additional software and/or as-needed professional services (such as programming services to create County-specific enhancements, additional training services, etc.) with respect to the vCMR System; and (e) \$187,694.50 is allocated to payments remaining under change orders that were entered into under County Agreement No. H-701820 that will be consolidated and completed under the Software and Services Agreement.

Atlas has provided a credit in the amount of \$816,676 that the County may use in equal installments annually during the initial term of the Software and Services Agreement to offset payments owed for maintenance, support, hosting, and/or professional services. After giving effect to this credit, the maximum contract sum for the initial term is \$3,129,703.50.

Maintenance, support, and hosting fees may be increased in the sixth and seventh years of the initial term of the Software and Services Agreement by a cost-of-living adjustment, if any, under Board Policy 5.070 (Multi-Year Services Contract Cost of Living Adjustments). Maintenance fees may additionally be increased if the number of County users increases in excess of the projected number of increased users indicated in Schedule C.1 (Maintenance Fees Detail) of Exhibit C (Price and Schedule of Payments) to the Software and Services Agreement.

The cost of this project is 100 percent offset by CDC Public Health Preparedness and Response for Bioterrorism Grant Number 5U90TP917012. Approximately \$380,154.54 in CDC grant funding that was previously allocated to County Agreement Number H-701820, but has not yet been spent, will be transferred to the Software and Services Agreement to support the maximum contract sum of \$3,129,703.50 for the initial term. Should there be a reduction at any point in grant funding during the term of this contract, DPH will identify alternate funding.

DPH has included funding for the Software and Services Agreement in its fiscal year (FY) 2010-11 budget and will include funding for the Software and Services Agreement in its budget for future FYs as necessary.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Software and Services Agreement includes all applicable legally required provisions. In addition, the Software and Services Agreement includes all applicable Board required provisions.

County Counsel has approved the Software and Services Agreement as to form. In accordance with your Board's policy regarding technology contracts, outside counsel also reviewed and commented on the Software and Services Agreement. The Chief Executive Office's Risk Management Division has reviewed Atlas's exceptions to the general indemnification provision and the negotiated limitation of liability provision (see Paragraph 12.0 [Indemnification; Limitation of Liability] of Exhibit A [Additional Terms and Conditions] to the Software and Services Agreement) and finds these provisions to be acceptable.

Please refer to the attorney-client privileged communication that County Counsel is submitting to your Board under separate cover, for a discussion of the material changes to the County's standard terms and conditions that were modified during negotiations with Atlas.

County Counsel has reviewed and approved Exhibit I as to form. Exhibit II summarizes the process for change orders and amendments to the Software and Services Agreement. Attachment A is the Sole Source Checklist that has been approved and signed by the CEO.

The Chief Information Office (CIO) concurs with DPH's recommendations and has provided the CIO analysis (Exhibit III).

CONTRACTING PROCESS

Background

Since September 10, 1996, your Board accepted CDC grant funding to develop and maintain surveillance activities to infectious disease for DPH's Acute Communicable Disease Control Program (ACDC). On May 19, 1998, your Board approved County Agreement No. H-209231 with Atlas to assist DPH in the development of the vCMR Software as DPH's communicable disease reporting system, as well as to license to the County other software products included in the vCMR System, all funded by CDC grants.

On November 1, 2005, your Board approved County Agreement Number H-701820 with Atlas, which replaced then-expired County Agreement Number H-209231, to further expand and develop the vCMR Software, and to provide ongoing maintenance and support of the vCMR System, all funded by CDC grants. Since that time, your Board has approved a number of amendments to County Agreement Number H-701820, as well as authorized the Director of DPH, or his designee, to approve additional

amendments on behalf of your Board, thereby allowing further expansion, development, maintenance, and support of the vCMR System, 100 percent offset by CDC grants.

On April 2, 2002, your Board approved County Agreement Number H-207543 (Marketing Agreement) with Atlas, on a sole source basis, allowing Atlas (a) to market the vCMR Software, (b) to enter into sublicense and services agreements for the vCMR Software, and (c) to make modifications and enhancements to the vCMR Software under such sublicense and services agreements. In exchange, the County is entitled to receive royalty payments from Atlas in the amount of ten percent (10%) of the gross monthly revenue received by Atlas. Since approval of the Marketing Agreement in April 2002, your Board has approved three (3) amendments to the Marketing Agreement including to extend the term thereof.

From the inception of the Marketing Agreement in April 2002 through December 2009, the County had received a total of \$313,992.01 in royalty payments. During this period, ACDC has found it increasingly onerous to effectively monitor Atlas's activities under the Marketing Agreement and had to divert valuable staff resources to that task alone, which has resulted in a deviation from ACDC's core functions. DPH began to evaluate alternatives to the current structure of the relationship with Atlas to reduce the burden of monitoring the Marketing Agreement as well as more effectively control the costs of maintaining, supporting, and hosting the vCMR System in the coming years.

To this end, on May 5, 2010, DPH notified your Board of DPH's intention to negotiate a sole source agreement with Atlas to change the structure of the County's relationship with Atlas by transferring the County's rights in the vCMR Software, as modified and enhanced, to Atlas in exchange for a perpetual and royalty-free license to such software together with a number of other rights, concessions, and valuable consideration. The Software and Services Agreement is the product of these negotiations.

Transfer of Ownership

Under the Software and Services Agreement, the County will transfer all rights it currently has including: (a) the vCMR Software, as modified and enhanced, (b) all intellectual property and other proprietary rights therein, anywhere in the world, and (c) the servers listed on Exhibit P (Transferred Servers) to the Software and Services Agreement currently used to host the vCMR System. In exchange for the County's transfer of these rights, Atlas will provide the following to the County during the initial term of the Software and Services Agreement.

1. At no cost to the County, up to a negotiated projected increase in the number of users, a perpetual, royalty free license to use the vCMR System, as well as all enhancements, updates, revisions, improvements, bug fixes, patches, and/or modifications (a) required to maintain full compliance with the CDC Public Health Information Network and National Electronic Disease Surveillance System

requirements and other related federal or State laws, rules, regulations, and standards, and/or (b) as otherwise provided by Atlas to its other customers as part of maintenance for the vCMR System, regardless of whether those customers' vCMR software applications are hosted by Atlas;

2. At no cost to the County, all work associated with (a) incorporating into version 10.0 of the vCMR Software (and all subsequent versions) all County-identified functionality from the current version used by the County, (b) migrating the County to version 10.0 (including implementation, data conversion, testing and training), and (c) implementing full interconnectivity to the State of California's CalREDIE system, all valued at approximately \$495,000;
3. A credit for the initial term of the Software and Services Agreement in the amount of \$816,676, which may be applied by the County in equal annual installments of \$116,668 over seven years toward the fees owed by the County for maintenance services, support services, hosting services, and/or as-needed other professional services with respect to the vCMR System. Approximately \$186,678 of the aggregate credit represents undisputed royalties that have accrued under the Marketing Agreement with respect to FY 2009-10 and as of February of FY 2010-11;
4. Maintenance services for the vCMR System at the discounted rates that the County currently pays under County Agreement Number H-701820. The agreed upon rates reflect a discount of approximately \$261,227.88 per year from the annual rates Atlas charges for the corresponding products under its current federal General Services Administration Authorized Federal Supply Service Information Technology Schedule Price List (see Attachment C.7 to Exhibit C [Price and Schedule of Payments] to the Software and Services Agreement). These discounted rates will be of greater value to the County under the Software and Services Agreement once Atlas has completed all work associated with migrating the County to version 10.0 of the vCMR Software because, under the restructured relationship, the County will receive enhancements, updates, revisions, improvements, bug fixes, patches, and/or modifications provided by Atlas to its other customers as part of maintenance for the vCMR Software, whereas under County Agreement Number H-701820, the County typically funds development of these items as the owner of the vCMR Software. Note that the rates for maintenance services are subject to a potential cost-of-living adjustment during the sixth and seventh year of the initial term of the Software and Services Agreement, as described in the Fiscal Impact/Financing section of this letter;
5. Enhanced hosting services for the vCMR System at discounted rates, including maintenance of all hosting hardware, software, and networking infrastructure as is necessary to maintain (a) vCMR System availability for 99.9 percent of each calendar month, excluding scheduled downtime, and (b) vCMR System response

times for most transactions of 99% processed within one (1) second, and the remaining one percent (1%) processed within five (5) seconds; and

6. Discounted rates for as-needed other professional services for the vCMR System of \$145/hour for the first five (5) years of the initial term, and \$175/hour for the sixth and seventh year of the initial term.

Should the County elect to exercise the three (3) additional and consecutive twelve (12) month option terms under the Software and Services Agreement, Atlas will additionally provide the following to the County:

1. Rates for maintenance services of the vCMR System in an amount not to exceed the applicable rates set forth in Atlas's federal General Services Administration Authorized Federal Supply Service Information Technology Schedule Price List, as are in effect on the effective date of the Software and Services Agreement (see Attachment C.7 to Exhibit C (Price and Schedule of Payments) to the Software and Services Agreement). Note that the rates for maintenance services may be increased (a) in any option term if the number of County users increases in excess of the projected number of increased users indicated on Schedule C.1 (Maintenance Fees Detail) of Exhibit C (Price and Schedule of Payments) to the Software and Services Agreement, and (b) in the second and third option term by a cost-of-living adjustment, if any, under Board Policy 5.070 (Multi-Year Services Contract Cost of Living Adjustments);
2. An annual credit for each option term of the Software and Services Agreement in an amount equal to 50 percent of the rates for maintenance services of the vCMR System for such option term. At estimated rates and number of users, the annual credits would equal \$205,701.50 for the first option term, \$211,872.55 for the second option term, and \$218,228.72 for the final option term;
3. Continued enhanced hosting services for the vCMR System at discounted rates. Note that the rates for hosting services may be increased during each option term by a cost-of-living adjustment, if any, under Board Policy 5.070 (Multi-Year Services Contract Cost of Living Adjustments); and
4. Continued discounted rate for as-needed other professional services for the vCMR System of \$175/hour.

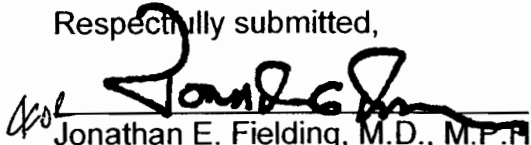
IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will allow DPH to: (a) maintain current services with respect to communicable disease surveillance and control while avoiding costs it would otherwise incur to keep the vCMR Software up-to-date; (b) move to the latest version of the vCMR Software without incurring the costs of data migration,

The Honorable Board of Supervisors
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implementation, training, and hardware acquisition; (c) continue expansion and development of the vCMR Software to support emergency preparedness and response as well as meet full CDC requirements with the burden of paying for system improvements to comply with changing State and federal requirements shifted to Atlas; (d) be relieved of the cost of maintaining the system hardware and replacing it as required; and (e) transfer ownership which will eliminate the administrative burden borne by DPH in monitoring the Marketing Agreement.

Respectfully submitted,


Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

Reviewed by,


Richard Sanchez
Chief Information Officer

JEF:im

Enclosures (4)

c: Chief Executive Officer
County Counsel
Executive Offices, Board of Supervisors

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SOFTWARE AND SERVICES AGREEMENT

BETWEEN

COUNTY OF LOS ANGELES

AND

ATLAS DATABASE SOFTWARE CORP

d/b/a ATLAS DEVELOPMENT CORPORATION

FOR

DEPARTMENT OF PUBLIC HEALTH

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EXHIBITS AND ATTACHMENTS

Exhibit A	Additional Terms and Conditions
Attachment A.1	County's Administration
Attachment A.2	Contractor's Administration
Exhibit B	Statement of Work
Exhibit C	Schedule of Pricing and Payments
Attachment C.1	Maintenance Fees Detail
Attachment C.2	Support Fees Detail
Attachment C.3	Hosting Fees Detail
Attachment C.4	Pool Dollars Detail & Additional Work Pricing
Attachment C.5	Credit Detail
Attachment C.6	Prior Change Order Detail
Attachment C.7	GSA Schedule
Exhibit D	Description of System Software
Attachment D.1	Web vCMR 8 Series Summary of Functions
Attachment D.2	System Definitions
Exhibit E	Minimum System Requirements
Exhibit F	Service Level Requirements
Attachment F.1	Guide to Customer Support Services
Attachment F.2	ELR (Electronic Lab Reporting) Maintenance and Support Guide
Attachment F.3	Disaster Recovery Service Level Agreement
Exhibit G	Contractor's Obligations As a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)
Exhibit H	Invoice Discrepancy Report
Exhibit I	Contractor's EEO Certification
Exhibit J	Acknowledgement, Confidentiality and Assignment Agreement
Exhibit K	Deliverable Acceptance Form

Exhibit L	Safely Surrendered Baby Law
Exhibit M	Jury Service Ordinance
Exhibit N	Source Code Escrow Agreement
Exhibit O	Intellectual Property Assignment
Exhibit P	Transferred Servers

RECITALS

THIS AGREEMENT (as further defined in Paragraph 2.0 (Definitions), hereafter "Agreement") dated as of _____, 2011, by and between the County of Los Angeles, a political subdivision of the State of California ("County"), and Atlas Database Software Corp., dba Atlas Development Corporation, a California corporation ("Contractor," and collectively with County, the "Parties," each a "Party").

WHEREAS, the Parties previously entered into that certain Agreement No. H-209231 dated May 19, 1998, as amended, and that certain Agreement No. H-701820 effective as of September 1, 2005, as amended (together with Agreement No. H-209231, as amended, the "Development Agreements"), pertaining to Contractor's development and delivery of the "Visual CMR Software" (as defined therein) and the enhancements and modifications thereto described in the Development Agreements (collectively referred to in this Agreement as "vCMR Software");

WHEREAS, County and Contractor are parties to that certain Agreement No. H-207543 dated April 2, 2002, as amended (the "Marketing Agreement," and collectively with the Development Agreement, the "Prior Agreements");

WHEREAS, pursuant to that certain Agreement No. DPO-HS-10369121-1 for Infection Control System dated July 13, 2010 (the "County ICS Agreement"), Contractor, among other things, is implementing for County, on behalf of its Department of Health Services, the software program known as "Guardian" (as further defined and described in the County ICS Agreement, the "Guardian Software");

WHEREAS, one or more components of the Guardian Software are considered to be an enhancement or modification to the vCMR Software;

WHEREAS, County and Contractor now desire that County transfer to Contractor, subject to the terms and conditions of this Agreement and without representation or warranty of any kind other than as expressly contained in Paragraph 3.3 below, all of County's right, title and interest in and to (a) the vCMR Software, including the components of the Guardian Software that are part of the vCMR Software, and (b) the items of hardware described in this Agreement;

WHEREAS, County and Contractor additionally desire that Contractor, subject to the terms and conditions of this Agreement, (a) grant to County (i) the credits described herein and (ii) the royalty free license to use the software products described herein and (b) provide to County the implementation, maintenance, support, hosting and other professional services described herein;

WHEREAS, County and Contractor additionally desire that this Agreement will supersede and replace, in their entirety, the Prior Agreements.

WHEREAS, County is permitted to enter into this Agreement under California Government Code sections 23004 and 31000 and otherwise.

NOW, THEREFORE, in exchange for the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and County hereby agree as follows:

1.0 AGREEMENT AND INTERPRETATION

1.1 AGREEMENT

This base agreement (the "Base Agreement") along with its (a) its preamble and recitals, (b) Exhibits A through P attached hereto, all Attachments hereto or thereto, incorporated herein by this reference, and (c) all executed Change Orders and Amendments hereto, collectively constitute and throughout and are referred to herein as the "Agreement." This Agreement shall constitute the complete and exclusive statement of understanding between County and Contractor and supersedes in their entirety any and all prior or contemporaneous agreements, written or oral, and all communications and negotiations between the parties relating to the subject matter of this Agreement. Notwithstanding the foregoing, this Agreement is not intended to, and shall not, supersede the County ICS Agreement, the terms and conditions of which continue in full force and effect with respect to the express subject matter thereof.

1.2 INTERPRETATION

In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility or schedule, or in the contents or description of any Task, Subtask, Deliverable, good, service, or other Work, or otherwise between this Base Agreement and the Exhibits or Attachments, such conflict or inconsistency shall be resolved by giving precedence first to this Base Agreement, and then to the Exhibits and Attachments according to the following priority:

Exhibit A	Additional Terms and Conditions
Attachment A.1	County's Administration
Attachment A.2	Contractor's Administration
Exhibit B	Statement of Work
Exhibit C	Schedule of Pricing and Payments
Attachment C.1	Maintenance Fees Detail
Attachment C.2	Support Fees Detail
Attachment C.3	Hosting Fees Detail
Attachment C.4	Pool Dollars Detail & Additional Work Pricing

Attachment C.5	Credit Detail
Attachment C.6	Prior Change Order Detail
Attachment C.7	GSA Schedule
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Exhibit K	Deliverable Acceptance Form
Exhibit L	Safely Surrendered Baby Law
Exhibit M	Jury Service Ordinance
Exhibit N	Source Code Escrow Agreement
Exhibit O	Intellectual Property Assignment
Exhibit P	Transferred Servers

1.3 ADDITIONAL TERMS AND CONDITIONS

Without limiting Paragraph 1.1 (Agreement), attached hereto as Exhibit A (Additional Terms and Conditions) and incorporated by reference herein, are additional terms and conditions to this Agreement. The Parties acknowledge and agree that they shall be bound by the additional terms and conditions set forth in such Exhibit A as if such terms and conditions were set forth in the body of this Base Agreement.

1.4 CONSTRUCTION

The words "herein", "hereof", and "hereunder" and words of similar import used in this Agreement refer to this Agreement, including all Exhibits and Attachments, as the context may require. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural. Whenever examples are used in this Agreement with the words "including", "for example", "e.g.", "such as", "etc.", or any derivation of such words, such examples are intended to be illustrative and not limiting. Paragraph headings used in the Agreement are for convenience only and are not a part of the Agreement and shall not be used in construing the Agreement. References in this Agreement to Federal, State, and/or other governmental statutes, codes, rules, regulations, ordinances, guidelines, directives, and/or policies, including those copies of which are attached to this Agreement, shall mean and shall be to such statutes, codes, rules, regulations, ordinances, guidelines, directives, and/or policies as amended from time to time.

2.0 DEFINITIONS

The following terms and phrases in quotation marks and with initial letters capitalized shall have the following specific meaning when used in this Agreement.

"Acceptance Deficiency" means, for purposes of System Acceptance of the Upgraded System, any Deficiency of Severity Level High or more severe, as defined in the Service Level Requirements.

"Acceptance Period" means, for purposes of System Acceptance of the Upgraded System, a continuous, uninterrupted forty-five (45) day period during which an Acceptance Deficiency has not occurred.

"Acceptance Tests" means any one or all of the tests conducted by County or by Contractor in accordance with the applicable Tasks of the Statement of Work.

"Additional Interfaces" means Interfaces, including all components and Documentation, which may be provided by Contractor under this Agreement upon County's request therefor pursuant to Paragraph 7.1.5 (Additional Work). The Additional Interfaces are and shall become components of the System Software.

"Additional Modifications" means modifications or enhancements to any Baseline Application, including all components and Documentation, which may be provided by Contractor under this Agreement upon County's request therefor pursuant to Paragraph 7.1.5 (Additional Work). The Additional Modifications are and shall become a component of the System Software.

"Additional Products" has the meaning set forth in Paragraph 7.1.5 (Additional Work).

"Additional Work" means Professional Services, Additional Modifications, Additional Interfaces, and/or Additional Products, which may be provided by Contractor upon County's request therefor pursuant to Paragraph 7.1.5 (Additional Work).

"Agreement" has the meaning set forth in Paragraph 1.1 (Agreement).

"Amendment" has the meaning set forth in Paragraph 8.0 (Change Orders and Amendments).

"Application Software" means the Baseline Applications, Additional Modifications, and Additional Interfaces, including all components and Documentation. The Application Software is and shall become a component of the System Software.

"Attachments" means the attachments to the Exhibits to this Base Agreement, as they may be amended by any executed Amendment.

"Base Agreement" has the meaning set forth in Paragraph 1.1 (Agreement).

"Baseline Applications" means the Core Applications, Baseline Interfaces, Baseline Modifications, and Third Party Software, including all components and Documentation. The Baseline Applications are and shall become components of the System Software.

"Baseline Interfaces" means Interfaces, including all components and Documentation, provided by Contractor under this Agreement pursuant to the Statement of Work, in order to meet the System Requirements and other Specifications. The Baseline Interfaces are and shall become components of the System Software.

"Baseline Modifications" means modifications or enhancements to any Core Application, including all components and Documentation, provided by Contractor under this Agreement pursuant to the Statement of Work, in order to meet the System Requirements and other Specifications. The Baseline Modifications are and shall become components of the System Software.

"Board" and/or "Board of Supervisors" means the Board of Supervisors of the County of Los Angeles.

"Business Day" means Monday through Friday, excluding County observed holidays.

"CDC" means the federal Centers for Disease Control and Prevention and any successor federal agency from time to time thereto, if any.

"CIO" means the County's Chief Information Officer.

"Change Order" has the meaning set forth in Paragraph 8.0 (Change Orders and Amendments).

"Compatible" and/or "Compatibility": (a) assumes that County's use of mainstream personal computer hardware and software widely available for a variety of applications are capable of using the then-current version or one prior version of Microsoft® Windows®; and (b) means that: (i) the applicable components of the County Environment are capable of supporting, operating and otherwise performing all anticipated functions of such County Environment components, when used in conjunction with the System Software, (ii) the applicable components of the System Software are capable of supporting, operating and otherwise performing all anticipated functions of such System Software components, when used in conjunction with the County Environment, (iii) the applicable components of Third Party Software are capable of supporting, operating and otherwise performing all anticipated functions of such Third Party Software components, when used in conjunction with the other components of the System Software, (iv) the applicable components of System Software are capable of supporting, operating and otherwise performing all anticipated functions of such System Software components, when used in conjunction with the Third Party Software and (v) each component of the System is capable of supporting, operating and otherwise performing all anticipated functions of such System component, when used in conjunction with all other components of the System.

"Confidential Information" has the meaning set forth in Paragraph 3.0 (Confidentiality and Security) of Exhibit A (Additional Terms and Conditions).

"Contractor" has the meaning set forth in the preamble to this Agreement.

"Contractor Key Personnel" has the meaning set forth in Paragraph 6.4 (Approval of Contractor's Staff).

"Contractor Project Director" has the meaning set forth in Paragraph 6.2 (Contractor Project Director).

"Contractor Project Manager" has the meaning set forth in Paragraph 6.3 (Contractor Project Manager).

"Contractor's Administration" has the meaning set forth in Paragraph 6.1 (Contractor's Administration).

"Core Applications" means the vCMR Software and all other of Contractor's proprietary software identified on Exhibit D (Description of System Software) as a "Core Application," including all components and Documentation, provided by Contractor under this Agreement pursuant to the Statement of Work, in order to meet the System Requirements and other Specifications. The Core Applications are and shall become components of the System Software.

"County" has the meaning set forth in the preamble to this Agreement.

"County Counsel" means County's Office of the County Counsel.

"County Environment" has the meaning set forth in Paragraph 15.0 (Minimum System Requirements).

"County ICS Agreement" has the meaning set forth in the recitals to this Agreement.

"County Indemnitees" has the meaning set forth in Paragraph 12.0 (Indemnification) of Exhibit A (Additional Terms and Conditions).

"County Materials" has the meaning set forth in Paragraph 15.0 (Proprietary Considerations) of Exhibit A (Additional Terms and Conditions).

"County Project Director" has the meaning set forth in Paragraph 5.2 (County Project Director).

"County Project Manager" has the meaning set forth in Paragraph 5.3 (County Project Manager).

"Deficiency" has the meaning set forth in Exhibit F (Service Level Requirements).

"Deliverable" means a service, product or good to be provided by Contractor to County under this Agreement and identified as a numbered Deliverable in the Statement of Work or any executed Change Order or Amendment.

"Deliverable Acceptance Form" has the meaning specified in Paragraph 7.2 (Approval of Work).

"Development Agreements" has the meaning set forth in the recitals to this Agreement.

"Director" means the Director of DPH or such person's designee.

"Disabling Device" has the meaning set forth in Paragraph 11.0 (General Warranties and Covenants) of Exhibit A (Additional Terms and Conditions).

"Dispute Resolution Procedure" has the meaning set forth in Paragraph 2.0 (Dispute Resolution Procedure) of Exhibit A (Additional Terms and Conditions).

"Documentation" means any and all written and electronic materials provided or made available by Contractor to County, including, but not limited to, User guides/manuals, installation manuals, training materials, testing protocols, methodologies, customer technical information, product release notes and reference materials, quick-reference guides, FAQs, specifications, system designs and system design reviews and all other instructions and information relating to the capabilities, operation, installation and use of System Software, where such materials are intended by Contractor to document the capabilities, operation, installation or use of the System Software.

"DPH" means County's Department of Public Health.

"DPH Partners" has the meaning set forth in the Service Level Requirements.

"Effective Date" means the date first set forth above, which is the date on which this Agreement has been approved by the Board of Supervisors and executed by authorized representatives of County and Contractor.

"Exhibits" means the Exhibits to this Base Agreement, as they may be amended by any executed Amendment.

"Fiscal Year" means County's fiscal year, which runs from and including July 1 of each calendar year to and including June 30 of the next calendar year.

"Guardian Software" has the meaning set forth in the recitals to this Agreement.

"Hosting Fees" means the quarterly fees to be paid by County in exchange for Contractor's performance of Hosting Services in accordance with this Agreement. The Hosting Fees are set forth on the Schedule of Pricing and Payments.

"Hosting Services" has the meaning set forth in Paragraph 7.1.4 (Hosting Services).

"Hourly Labor Rate" means, for Contractor's personnel, the fully burdened hourly rate set forth in the Schedule of Pricing and Payments, which rate includes an allocated average of direct and indirect costs, overhead, administrative expenses, any and all out-of-pocket expenses and any other incidental expenses directly attributable to each personnel hour worked for the Hourly Labor Rate.

"Infringement Claims" has the meaning set forth in Paragraph 14.0 (Intellectual Property Indemnification) of Exhibit A (Additional Terms and Conditions).

"Initial Term" has the meaning set forth in Paragraph 9.0 (Term).

"Intellectual Property Rights" has the meaning set forth in Paragraph 3.1.

"Interfaces" means the software mechanisms, consisting of Baseline Interfaces and Additional Interfaces, which allow the transfer of electronic data or software commands between computer systems, computer programs or computer program modules, including all components and Documentation. The Interfaces are and shall become components of the System Software.

"Invoice Discrepancy Report" and/or "IDR" has the meaning set forth in Paragraph 12.6 (Invoice Discrepancy Report).

"Lab" means any laboratory authorized by the County to access or use the System.

"License" has the meaning set forth in Paragraph 13.2 (Scope of License).

"Maintenance Fees" means the quarterly fees to be paid by County in exchange for Contractor's performance of Maintenance Services, in each case, in accordance with this Agreement. The Maintenance Fees are set forth on the Schedule of Pricing and Payments.

"Maintenance Services" has the meaning set forth in Paragraph 7.1.2 (Maintenance Services).

"Marketing Agreement" has the meaning set forth in the recitals to this Agreement.

"Maximum Contract Sum" has the meaning set forth in Paragraph 10.0 (Prices and Fees).

"Natural Degeneration" has the meaning set forth in Paragraph 14.1 (Source Code Escrow).

"Notice of Delay" has the meaning set forth in Paragraph 54.0 (Notice of Delay) of Exhibit A (Additional Terms and Conditions).

"Option Term" has the meaning set forth in Paragraph 9.0 (Term).

"Out-of-Pocket Expenses" means Contractor's reasonable and necessary expenditures for Contractor's staff transportation, means, and lodging, but not to exceed the limits set forth in the then current Chapter 5.40 (Travel and Other Expenses) of the Los Angeles County Code.

"Party" and Parties have the respective meanings set forth in the preamble to this Agreement.

"Pool Dollars" has the meaning set forth in Paragraph 10.6 (Pool Dollars).

"Prior Agreements" has the meaning set forth in the recitals to this Agreement.

"Production Environment" means the System Environment for Production Use.

"Production Use" means the actual use of the System in the Production Environment as it relates to the System Software.

"Professional Services" means training, consulting and other professional services, which may be provided by Contractor under this Agreement upon County's request therefor pursuant to Paragraph 7.1.5 (Additional Work).

"Project Charter" has the meaning set forth in the Statement of Work.

"Release Conditions" has the meaning set forth in Paragraph 14.2 (Release Conditions).

"Replacement Product" has the meaning set forth in Paragraph 17.0 (Continuous Product Support).

"Schedule of Pricing and Payments" means Exhibit C (Schedule of Pricing and Payments), together with all Attachments thereto, as the same may be amended by any executed Amendment.

"Service Level Requirements" means Exhibit F (Service Level Requirements), together with all Attachments thereto, as the same may be amended by any executed Amendment.

"Service Request" has the meaning set forth in Attachment F.1 (Guide to Customer Support Services) of the Service Level Requirements.

"Severity Levels" means the Severity Levels Critical, High, Medium and Low, as defined in the Service Level Requirements, for Service Requests and Deficiencies.

"Source Code" means computer programming code in human readable form that is not suitable for machine execution without the intervening steps of program interpretation or compilation, including the tools and developer kits that created and that enable creation of such code. Unless otherwise noted, references in this Agreement to Source Code are to Source Code for the System Software.

"Specifications" means all functional, technical, performance and other capability specifications for the System Software as of the Effective Date and all specifications for the System Software set forth in the Statement of Work, the Service Level Requirements, Exhibit D (Description of System Software) and the

Attachments thereto, otherwise in this Agreement, any Deliverables under the Statement of Work and/or any executed Change Order and/or Amendment, the System Requirements, and/or the Documentation.

"Statement of Work" and/or "SOW" means the statement of Tasks, Subtasks, Deliverables, goods, services and other work to be provided by Contractor under this Agreement, as specified in Exhibit B (Statement of Work) to this Agreement, including all Attachments thereto, as the same may be amended by any executed Amendment.

"Subtask" means one or more sub-areas of work to be performed under this Agreement and identified as a numbered Subtask in the Statement of Work or any executed Change Order or Amendment.

"Support Fees" means the quarterly fees to be paid by County in exchange for Contractor's performance of Support Services, in each case, in accordance with this Agreement. The Support Fees are set forth on the Price and Schedule of Payments.

"Support Services" has the meaning set forth in Paragraph 7.1.3 (Support Services).

"System" means the System Software, System Environment, Maintenance Services, Support Services, Hosting Services and Professional Services, including all components thereof.

"System Acceptance" has the meaning specified in Subtask 12.1 (System Acceptance) of the Statement of Work.

"System Environment" means System Hardware, System Network and System Operating Software to be supplied by Contractor under this Agreement as part of its obligation to perform Hosting Services. The System Environment includes the Production Environment and all other environments described in this Agreement, including the Statement of Work.

"System Hardware" means computer hardware and all other equipment to which access is provided by Contractor under this Agreement as a part of its obligation to perform Hosting Services.

"System Network" means network and all other data communications components from the System Hardware up to and including the point at which Contractor's Internet service provider connects the System Environment to the infrastructure of the Internet, to which access is provided by Contractor under this Agreement as a part of its obligation to perform Hosting Services.

"System Operating Software" means the operating software for the System Hardware.

"System Requirements" means all operational, functional, technical and other requirements regarding the System set forth in the Statement of Work, the Service Level Requirements, Exhibit D (Description of System Software) and the Attachments thereto, otherwise in this Agreement, and/or in any Deliverables under the Statement of Work and/or any executed Change Order and/or Amendment.

"System Software" means Application Software and, if, as, or when provided by Contractor in accordance with this Agreement, Updates, Version Releases, and Additional Products in the form of software, including all components and Documentation, provided by Contractor or by County in accordance with this Agreement.

"Task" means one or more major areas of work to be performed under this Agreement and identified as a numbered Task in the Statement of Work or any executed Change Order or Amendment.

"Tax" and/or "Taxes" means governmental fees (including license, filing and registration fees) and all taxes (including franchise, excise, stamp, value added, income, gross receipts, gross revenue, import, export, sales, use, transfer, and property taxes), withholdings, assessments, levies, imposts, duties, charges, or interest thereon imposed.

"Term" has the meaning set forth in Paragraph 9.0 (Term).

"Third Party Software" has the meaning set forth in Paragraph 16.0 (Third Party Software).

"Updates" means any enhancements, updates, revisions, improvements, bug fixes, patches, and/or modifications, other than Baseline Modifications or Additional Modifications, to the System Software (a) required to maintain the System Software's full compliance with the CDC Public Health Information Network and National Electronic Disease Surveillance System requirements and other related federal or state laws, rules, regulations, and standards, and/or (b) as otherwise provided by Contractor to its other customers as part of maintenance for the System Software, regardless of whether those customers are hosted by Contractor. The Updates are and shall become components of the System Software. Updates do not include Version Releases.

"Upgraded System" has the meaning set forth in Paragraph 7.1.1 (Implementation of Upgraded System).

"User" means any person or entity authorized by the County to access or use the System in accordance with the terms of this Agreement.

"vCMR Software" has the meaning set forth in the recitals to this Agreement.

"Version Releases" means any Update, accumulation of Updates and/or other major upgrade, enhancement, modification or revision, other than Baseline Modifications or Additional Modifications, to the System Software with respect to which Contractor determines are significant enough as to necessitate assigning a new version name or number to the System Software. Version Releases are and shall become components of the System Software. Contractor is not obligated to provide as Version Releases, any software module that provides a substantially new and separate set of functionality from the functionality then included in the software modules then constituting the System Software, unless Contractor determines to make such a software module available to County as a Version Release.

"Viruses" means any device, method or means including, without limitation, the use of any "virus", "lockup", "time bomb", or "key lock", "worm", "back door" or "Trojan Horse" device or program, any disabling code or malware, which has the reasonable potential or capability of compromising the security of County's Confidential Information or of causing any unplanned interruption of the operations of, or accessibility of County's systems to County or any User and which is intended to alter, destroy, or inhibit the use of County's systems, or the data contained therein, or introduce a security vulnerability to County's systems or networks.

"Work" means any and all Tasks, Subtasks and Deliverables in the Statement of Work, Additional Work, goods, Maintenance Services, Support Services, Hosting Services, Professional Services, and other work performed or provided by or on behalf of Contractor in order to meet the requirements of this Agreement, including the Statement of Work, all other Exhibits and Attachments, and all executed Change Orders and Amendments.

3.0 TRANSFER OF OWNERSHIP; LIMITATION OF LIABILITY

- 3.1 County transfers, conveys and assigns to Contractor, as-is and without representation or warranty of any kind or nature, except as expressly set forth in Paragraph 3.3 below, throughout the world, any and all of County's right, title, and interest, if any, in and to (a) the vCMR Software and all enhancements and modifications thereto, including those components of the Guardian Software owned by County, in each case, developed under any of the Prior Agreements, regardless of whether developed at County's suggestion or with County's input, (b) all intellectual property rights therein, including any copyrights, patent rights, trademarks, trade secrets, trade dress, moral rights, or other proprietary rights any where in the world (collectively, "Intellectual Property Rights"), and (c) the servers listed on Exhibit P (Transferred Servers) (the property described in clauses (a) through (c) above collectively referred to as the "Transferred Property").
- 3.2 Director shall have authority to execute and deliver on behalf of County a written instrument effecting the assignment of the Transferred Property substantially in the form of Exhibit O. The Parties agree that County's execution and delivery to Contractor of such written assignment instrument is a material obligation under this Agreement. Director shall have the authority to undertake on behalf of County any

and all actions reasonably requested by Contractor during the Term to perfect the conveyance to Contractor of County's right, title, and interest, if any, in the Transferred Property.

- 3.3 As of the Effective Date, County represents and warrants, to the best of County's knowledge and belief, and excepting such rights that the CDC may hold or possess:
- 3.3.1 County has the full power and authority to enter into the Agreement and to grant all rights granted by the Agreement to Contractor;
 - 3.3.2 No consent of any other person or entity is required by County to grant such rights other than consents that have been obtained and are in effect;
 - 3.3.3 County owns and possesses its right, title and interest in the Transferred Property free and clear of any lien, license or other restriction or limitation regarding use, exploitation or disclosure in the United States all the Transferred Property;
 - 3.3.4 County has not granted rights or title to the Transferred Property by any act or omission of County;
 - 3.3.5 County is not a party to any agreement that would prohibit the transfer of the Transferred Property to Contractor;
 - 3.3.6 County is not aware of any set of facts or circumstances which bring into question its ownership of the Transferred Property or County's ability to convey title thereto; and
 - 3.3.7 County is not a party to any litigation, proceeding or other action pending or threatened against County or in respect of the Transferred Property that could have a material adverse effect on County's ability to grant all rights granted by the Agreement to Contractor.
- 3.4 Without limitation to County's obligations under Paragraphs 3.1 and 3.2, if and to the extent that the Transferred Property cannot be assigned to Contractor under operation of law, then to the extent permitted under applicable law, County hereby grants Contractor an exclusive perpetual, royalty-free, fully paid up, freely sublicensable, freely assignable license to make, have made, import, export, sell, have sold, modify, distribute, perform, display, reproduce, and create derivative works of the Transferred Property. Also, to the extent permitted under applicable law, County (a) shall not grant any rights to any third party in the Transferred Property, including the right to exercise any and all of County's rights to assert and enforce any and all of County's right, title, and interest, if any, in and to the Transferred Property, and (b) shall not assist any third party (excluding CDC) in enforcing any right or interest in and to the Transferred Property.

- 3.5 EXCEPT AS EXPRESSLY SET FORTH IN PARAGRAPH 3.3 ABOVE, COUNTY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TRANSFERRED PROPERTY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE AND FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.
- 3.6 IN NO EVENT SHALL COUNTY BE LIABLE OR RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR LOSS OF REVENUES, RELATED TO OR IN CONNECTION WITH THE TRANSFER OF OWNERSHIP DESCRIBED IN THIS PARAGRAPH 3.0, EVEN IF COUNTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL COUNTY'S AGGREGATE LIABILITY RELATED TO OR IN CONNECTION WITH THE TRANSFER OF OWNERSHIP DESCRIBED IN THIS PARAGRAPH 3.0 EXCEED AN AMOUNT EQUAL TO ONE MONTH'S PRO RATA PORTION OF MAINTENANCE FEES, SUPPORT FEES AND HOSTING FEES UNDER THIS AGREEMENT. THE LIMITATIONS SET FORTH IN THIS PARAGRAPH 3.0 WILL APPLY TO ANY AND ALL CLAIMS AND CAUSES OF ACTION WHATSOEVER, REGARDLESS OF WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHER THEORY.

4.0 INCORPORATION OF PRIOR CHANGE ORDERS

4.1 INCORPORATION

County engaged Contractor to perform various tasks, deliverables, goods, services and other work under the Agreement No. H-701820 effective as of September 1, 2005, as amended, pursuant to the change orders listed on Attachment C.6 (Prior Change Order Detail) of the Schedule of Pricing and Payments (collectively in this Paragraph 4.0 "Prior Change Orders"). Effective as of the Effective Date, (a) the Prior Change Orders shall be treated for all purposes under this Agreement as if such Prior Change Orders had been issued as the applicable of Change Orders or Amendments under this Agreement, and (b) all tasks, deliverables, goods, services and other work provided under such Prior Change Orders shall be treated for all purposes under this Agreement as Additional Work provided under the applicable of Change Orders or Amendments under this Agreement. Without limiting the foregoing, upon completion and delivery by Contractor, and acceptance by County, of any Additional Modifications, Additional Interfaces and/or Additional Products, under the Prior Change Orders, such Additional Modifications, Additional Interfaces or Additional Products, as the case may be, shall become part of and be included in the System Software for all purposes under this Agreement.

4.2 PAYMENT FOR WORK UNDER PRIOR CHANGE ORDERS

Contractor expressly acknowledges that (a) Contractor has received with respect to each Prior Change Order, payment for the amounts indicated on Attachment C.6 (Prior Change Order Detail) of the Schedule of Pricing and Payments under the column entitled "Aggregate Amount Paid," (b) Contractor shall provide all remaining tasks, deliverables, goods, services and other work to be provided under each Prior Change Order in exchange for the amounts indicated on Attachment C.6 (Prior Change Order Detail) of the Schedule of Pricing and Payments under the column entitled "Remaining Balance" for such Prior Change Order, and (c) County acceptance, Contractor invoicing, and County payment for all remaining tasks, deliverables, goods, services and other work under each Prior Change Order shall be in accordance with the applicable provisions of this Agreement.

5.0 ADMINISTRATION OF AGREEMENT – COUNTY

5.1 COUNTY'S ADMINISTRATION

A listing of all County personnel responsible for the administration of this Agreement on behalf of County ("County's Administration") as of the Effective Date, as referenced below in this Paragraph 5.0, is set forth in Attachment A.1 (County's Administration) of Exhibit A (Additional Terms and Conditions). No member of County's Administration is authorized to make any changes in any of the terms and conditions of this Agreement unless specifically authorized in Paragraph 8.0 (Change Orders and Amendments). County shall notify Contractor in writing of any change in the names or addresses shown.

5.2 COUNTY PROJECT DIRECTOR

5.2.1 County Project Director will be responsible for confirming that the objectives of this Agreement are met. County Project Director shall have the right at all times to inspect any and all Work provided by or on behalf of Contractor.

5.2.2 Unless otherwise specifically noted, whenever this Agreement calls for a notice, report, or other delivery to be made by Contractor (or any representative thereof) to County Project Director, such notice, report, or other delivery shall be made to County Project Director in accordance with the notice information set forth above or in accordance with such other notice information as County may notify Contractor from time to time pursuant to this Paragraph 5.2.

5.3 COUNTY PROJECT MANAGER

5.3.1 County Project Manager shall be a resource for addressing the technical standards and requirements of this Agreement, shall interface regularly with Contractor and further shall have the duties from time to time given to such person by County.

5.3.2 County Project Manager shall advise County Project Director as to Contractor's performance in areas relating to technical requirements and standards, County policy, information requirements, and procedural requirements.

5.3.3 Unless otherwise specifically noted, whenever this Agreement calls for a notice, report, or other delivery to be made by Contractor (or any representative thereof) to County Project Manager, such notice, report, or other delivery shall be made to County Project Manager in accordance with the notice information set forth above or in accordance with such other notice information as County may notify Contractor from time to time pursuant to this Paragraph 5.3.

5.4 CONSOLIDATION OF DUTIES

County reserves the right to consolidate the duties of County Project Director, enumerated in Paragraph 5.2 (County Project Director), and the duties of County Project Manager, enumerated in Paragraph 5.3 (County Project Manager), into one County position, and to assign all such duties to one individual who will act as County's liaison in all matters relating to this Agreement. County will notify Contractor no later than five (5) Business Days prior to exercising its rights pursuant to this Paragraph 5.4.

5.5 COUNTY PERSONNEL

All County personnel assigned to this Agreement shall be under the exclusive supervision of County. Contractor understands and agrees that all such County personnel are assigned only for the convenience of County.

6.0 **ADMINISTRATION OF AGREEMENT – CONTRACTOR**

6.1 CONTRACTOR'S ADMINISTRATION

A listing of all Contractor personnel responsible for the administration of this Agreement on behalf of Contractor ("Contractor's Administration") as of the Effective Date, as referenced below in this Paragraph 6.0, is set forth in Attachment A.2 (Contractor's Administration) of Exhibit A (Additional Terms and Conditions). No member of Contractor's Administration is authorized to make any changes in any of the terms and conditions of this Agreement unless specifically authorized under Paragraph 8.0 (Change Orders and Amendments). Subject to Paragraph 6.4 (Approval of Contractor's Staff), Contractor shall notify County in writing of any change in the names or addresses shown.

6.2 CONTRACTOR PROJECT DIRECTOR

- 6.2.1 Contractor Project Director shall be responsible for Contractor's performance of all of the Work and ensuring Contractor's compliance with this Agreement.
- 6.2.2 During the Term, Contractor Project Director shall be available to meet and confer with County Project Director at reasonable intervals agreed to by the Parties, in person or by phone to review project progress and discuss project coordination.

6.3 CONTRACTOR PROJECT MANAGER

- 6.3.1 Contractor Project Manager shall be responsible for Contractor's day-to-day activities as related to this Agreement. Contractor Project Manager shall ensure that all reports are submitted as specified in the Statement of Work and/or otherwise in this Agreement.
- 6.3.2 During the Term, Contractor Project Manager shall be available to meet and confer with County as necessary, but no less frequently than weekly, unless otherwise specified by County Project Director or County Project Manager.

6.4 APPROVAL OF CONTRACTOR'S STAFF

- 6.4.1 The following positions are designated as key functions under this Agreement: Contractor Project Director; Contractor Project Manager and a dedicated information technology support position filled as of the Effective Date by Cooper Chien (collectively, the "Contractor Key Personnel"). Contractor shall, to the maximum extent possible, take all necessary steps to ensure continuity over time of the membership of the group constituting the Contractor Key Personnel. Contractor shall fill any Contractor Key Personnel vacancy with personnel having qualifications at least equivalent to those of the Contractor Key Personnel member(s) being replaced as commercially reasonable within two (2) weeks, but in no event later than within one (1) month of such vacancy, or as otherwise agreed to by the Parties.
- 6.4.2 In the event Contractor should desire to remove any Contractor Key Personnel from performing Work under this Agreement, Contractor shall provide County with notice at least thirty (30) days in advance, except in circumstances in which such notice is not possible (e.g., a removal for cause). Contractor shall additionally work with County on a mutually agreeable transition plan so as to ensure project continuity.
- 6.4.3 If Contractor desires to replace, or if County requires removal due to reasonable dissatisfaction with, any Contractor Key Personnel, Contractor shall provide County with a resume of each such proposed replacement, and an opportunity to interview such person prior to

such person performing any Work hereunder. County Project Director has the right to approve or disapprove any proposed replacement for the Contractor Key Personnel, which approval/disapproval shall not be unreasonably withheld or delayed.

6.4.4 All members of Contractor's staff who have direct contact with County (either by telephone, electronic or written correspondence, or in person), including Contractor Key Personnel, shall be fully fluent in both spoken and written English.

6.5 PROJECT STATUS REPORTS BY CONTRACTOR

In order to control expenditures and to ensure the reporting of all Work provided by Contractor, Contractor Project Manager shall provide County Project Director and County Project Manager with reasonably required written reports which contain the information and are submitted with the frequency indicated in the Statement of Work, any applicable Change Order or Amendment, or as otherwise agreed to by County Project Manager and Contractor Project Manager.

7.0 WORK AND SYSTEM ACCEPTANCE

7.1 SCOPE OF WORK

Pursuant to the terms of this Agreement, Contractor shall fully and timely provide, complete and deliver all Tasks, Subtasks, Deliverables, goods, services and other Work set forth in this Agreement, including the Statement of Work and the Service Level Requirements. Additionally, Contractor shall provide, complete and deliver all such Work in accordance with the requirements and specifications set forth in this Agreement, any applicable executed Change Order or Amendment, the System Requirements, the other Specifications and/or the Project Charter.

7.1.1 Implementation of Upgraded System

Contractor shall provide Tasks, Subtasks and Deliverables 1-12 set forth in the Statement of Work, which include all implementation, custom programming, data conversion, testing and training services with respect to (a) the upgrade of the vCMR Software components of the System Software to Version 10.0, as described in the Statement of Work, and (b) the upgrade of the System Environments as is necessary for System Software, including the upgrade described in clause (a), to perform in accordance with the System Requirements and other Specifications (collectively, "Upgraded System"). Upon Contractor's achievement of System Acceptance for the Upgraded System, the Upgraded System shall become a part of the applicable of System Software, System Environments, and Hosting Services and of the System as a whole for all purposes under this Agreement.

7.1.2 Maintenance Services

In exchange for County's payment of Maintenance Fees in accordance with this Agreement, Contractor shall provide maintenance services for the System Software and the System Environment as described in, and in accordance with, Task 13 (Provide Maintenance Services) of the Statement of Work, the Service Level Requirements and otherwise in this Agreement ("Maintenance Services"). Maintenance Services shall commence upon the Effective Date and continue throughout the Term. County's obligation to pay Maintenance Fees in exchange for Contractor's provision of Maintenance Services is described in Paragraph 10.3 (Maintenance Fees). Maintenance Services include provision of Updates and Version Releases, as more fully described in the Service Level Requirements.

7.1.3 Support Services

In exchange for County's payment of Support Fees in accordance with this Agreement, Contractor shall provide support services for the System as described in, and in accordance with, Task 14 (Provide Support Services) of the Statement of Work, the Service Level Requirements and otherwise in this Agreement ("Support Services"). Support Services shall commence upon the Effective Date and continue throughout the Term. County's obligation to pay Support Fees in exchange for Contractor's provision of Support Services is described in Paragraph 10.4 (Support Fees). Support Services include responding to and analyzing Service Requests and correcting any and all Deficiencies in the System, as more fully described in the Service Level Requirements.

7.1.4 Hosting Services

In exchange for County's payment of the Hosting Fees in accordance with this Agreement, Contractor shall provide to County hosting services for the System as described in, and in accordance with, Task 15 (Provide Hosting Services) of the Statement of Work, the Service Level Requirements and otherwise in this Agreement ("Hosting Services"). Hosting Services shall commence upon the Effective Date and continue throughout the Term. County's obligation to pay Hosting Fees in exchange for Contractor's provision of Hosting Services is described in Paragraph 10.5 (Hosting Fees). Hosting Services include any and all goods, services and other Work, including the System Environments, necessary for Contractor to host the System Software such that the System Software performs in accordance with the System Requirements and other Specifications, all as more fully described in the Service Level Requirements.

7.1.5 Additional Work

- a. County Project Director may from time to time request that Contractor provide any of the following as Additional Work under this Agreement:

- (1) Additional Modifications and/or Additional Interfaces for creating new functionality, and customizations, modifications and custom interfaces not then-described in this Agreement, including the Statement of Work;
- (2) Software, tools and other products relating to System Software, outside of the scope of the System Requirements, as they then exist, including all components and Documentation ("Additional Products");
- (3) Professional Services, including consulting and training, outside of the scope of services then-described in this Agreement, including the Statement of Work.

Upon execution of a Change Order or Amendment pursuant to Paragraph 8.0 (Change Orders and Amendments) for any Additional Work, Contractor shall provide such Additional Work in accordance with Task 16 (Provide As-Needed Additional Work) of the Statement of Work, the applicable Change Order or Amendment, and otherwise with this Agreement.

- b. Additional Work for each Fiscal Year during the Term shall utilize and be capped by the availability of Pool Dollars for such Fiscal Year. For each Fiscal Year, in no event shall County be obligated to pay for Additional Work for such Fiscal Year in excess of the then available Pool Dollars for such Fiscal Year, nor shall Contractor be required to perform any Additional Work for such Fiscal Year if there are no Pool Dollars available for such Fiscal Year.
- c. Upon completion and delivery by Contractor, and acceptance by County, of any Additional Modifications, Additional Interfaces and/or Additional Products, such Additional Modifications, Additional Interfaces or Additional Products, as the case may be, shall become part of and be included in the System Software for all purposes under this Agreement.
- d. Should County Project Director submit a written request for the same under this Paragraph 7.1.5, Contractor shall provide as Additional Work all Tasks, Subtasks, Deliverables, goods, services and other Work required to implement interconnectivity of the System Software with the State of California's CalREDIE system, in order to allow for inter-jurisdictional transfers of case reports, lab information and contact information, and as otherwise needed to support applicable Federal or State laws, rules, regulations, ordinances, policies, guidelines, directives and initiatives. Notwithstanding anything to the contrary in this Agreement, Contractor agrees that Contractor shall provide all such all Tasks, Subtasks, Deliverables, goods, services and other Work required

to implement interconnectivity of the System Software with the State of California's CalREDIE system at no cost to County.

7.2 APPROVAL OF WORK

- 7.2.1 Upon Contractor's completion of a particular Deliverable or of other Work under an executed Change Order or Amendment (in each case, other than Maintenance Services, Support Services and Hosting Services), Contractor shall submit a Deliverable Acceptance Form in the form attached as Exhibit K (Deliverable Acceptance Form) (each a "Deliverable Acceptance Form") to County Project Director, together with any supporting documentation set forth in the Statement of Work or the applicable Change Order or Amendment, for County Project Director's written approval. All Deliverables and all other Work under a Change Order or Amendment must have the written approval of County Project Director, as evidenced by County Project Director's countersignature to the applicable Deliverable Acceptance Form, which written approval shall not be unreasonably withheld or delayed.
- 7.2.2 County Project Director shall approve or disapprove particular Tasks, Deliverables and other Work provided by Contractor pursuant to this Agreement within the time frames set forth in the Project Charter, or if none, within fifteen (15) days from the date of Contractor's submission of the applicable Deliverable Acceptance Form. Should County require more than fifteen (15) days to provide its approval for any Work, County shall provide Contractor written notice of such delay, including the estimated extra time required for approval. If County estimates that the extra approval time will require more than fifteen (15) days or fails to provide any response, Contractor shall be allowed to suspend its performance with respect to the Deliverables or other Work that are directly dependent upon the Work being approved by County. In any case, upon County's failure to approve such Deliverable within fifteen (15) days, the Project Charter or project schedule under the applicable Change Order or Amendment, as the case may be, may be modified by Contractor to extend the due dates for the Deliverable or other Work being approved and any dependent Deliverables/other Work by the number of days County is late providing its approval beyond the fifteen (15) day period. In no event shall County be liable or responsible for payment respecting particular Work prior to execution of the Deliverable Acceptance Form or the County approved final Deliverable Acceptance Form applicable for such Work.
- 7.2.3 In the event County Project Director disapproves any of Contractor's Work based upon non-conformance with agreed upon and documented System Requirements or other Specifications, County

may pursue any and all remedies set forth in this Agreement and as otherwise provided by law and/or in equity.

7.3 UNAUTHORIZED WORK

If Contractor provides any work, other than as specified in this Agreement, including the Statement of Work, or in an executed Change Order or Amendment, the same shall be deemed a gratuitous effort on the part of Contractor, and Contractor shall have no claim whatsoever against County.

7.4 SYSTEM ACCEPTANCE

- 7.4.1 Contractor shall be obligated to achieve System Acceptance for the Upgraded System on or before the second anniversary of the Effective Date. Such date may be extended only in accordance with Paragraph 8.3 (Amendments) and shall be extended with respect to delay to the extent resulting from (a) County delay, provided that a Notice of Delay has been filed in accordance with Paragraph 54.0 (Notice of Delay) of Exhibit A (Additional Terms and Conditions), or (b) events described in Paragraph 16.0 (Force Majeure) of Exhibit A (Additional Terms and Conditions).
- 7.4.2 The requirements for Contractor to achieve System Acceptance of the Upgraded System are set forth in Subtask 12.1 (System Acceptance) of the Statement of Work. Contractor's achievement of System acceptance of the Upgraded System shall be signified by County's approval in accordance with this Agreement of Deliverable 12.1 (System Acceptance Certificate) of the Statement of Work.
- 7.4.3 If at any time during the Acceptance Period, County Project Director makes a good faith determination that the Upgraded System has experienced an Acceptance Deficiency, County Project Director shall promptly notify Contractor in writing (which includes notification through any mechanism identified in the Service Level Requirements for initiating a Service Request) of such occurrence, describing the occurrence in reasonable detail. Contractor shall promptly commence such necessary corrections and repairs to the components of the Upgraded System to permit the Acceptance Period to restart. Contractor shall notify County Project Director in writing when such corrections and repairs have been completed. Upon County Project Director's verification of the same, the Acceptance Period shall be restarted (in this Paragraph 7.4, an "Acceptance Period Restart"). Providing sufficient time remains for Contractor to correct an Acceptance Deficiency at least forty-five (45) days before the second anniversary of the Effective Date, the System Acceptance process shall continue. The correction and repair and Acceptance Period Restart processes described in this Paragraph 7.4.3 shall additionally

apply in the event that Contractor otherwise discovers that an Acceptance Deficiency has occurred.

7.4.4 If, following an Acceptance Period Restart, sufficient time does not remain for Contractor to correct an Acceptance Deficiency at least forty-five days (45) days before the second anniversary of the Effective Date, County Project Director shall promptly notify Contractor in writing of County's election to either: (a) permit Contractor to repeat the correction and repair process described in Paragraph 7.4.3 above; (b) require Contractor, at Contractor's expense and upon County's return of the affected components of the Upgraded System, (i) to replace the affected components of the Upgraded System with another Contractor and/or third party product that satisfies the System Requirements and other Specifications and (ii) to make all modifications to the remaining components of the Upgraded System as is necessary for such Contractor or third party product to be compatible with the remaining components of the Upgraded System; or, if, in County's sole but reasonable discretion, neither subsection (a) or (b) will provide the County with an Upgraded System that performs as described in Subtask 12.1 (System Acceptance) of the Statement of Work, (c) terminate this Agreement with respect to the Upgraded System and impose the applicable liquidated damages specified in Paragraph 12.4 (Liquidated Damages). Upon approval by County in accordance with this Agreement, each such Contractor and/or third party product shall constitute the applicable System Software comprising part of the System for all purposes under this Agreement. If Contractor fails to replace an affected component of the Upgraded System as provided in this Paragraph 7.4.4 within sixty (60) calendar days of County's initiation of such remedy under this Paragraph 7.4.4 (as such period may be extended, in writing, by County Project Director), then County may terminate this Agreement and impose the applicable liquidated damages specified in Paragraph 12.4 (Liquidated Damages).

8.0 CHANGE ORDERS AND AMENDMENTS

8.1 GENERAL

No representative of either County or Contractor, including those named in this Agreement, is authorized to make any changes in any of the terms, obligations, or conditions of this Agreement, except through the procedures set forth in this Paragraph 8.0 or as expressly provided elsewhere in this Agreement. County reserves the right to change any portion of the Work required under this Agreement or amend such other terms and conditions. Any such change shall be accomplished only as provided in this Paragraph 8.0.

8.2 CHANGE ORDERS

- 8.2.1 Without limiting Paragraph 8.3 (Amendments), for any change which does not affect the scope of Work, Term, Maximum Contract Sum, payments or any term or condition of this Agreement, including the Exhibits and Attachments, a "Change Order" shall be prepared and executed by County Project Director and an authorized representative of Contractor as set forth in Attachment A.2 (Contractor's Administration), subject in all cases to the availability of funding.
- 8.2.2 Such changes include changes which require Additional Work; provided that any such Change Order (a) uses then-available Pool Dollars, (b) includes all information required under Task 16 (Provide As-Needed Additional Work) of the Statement of Work, (c) does not require amending any term or condition of this Agreement, including any Exhibit or Attachment, and (d) has the written concurrence of DPH's Chief Information Officer or such person's designee. The Parties agree that prior to executing any proposed Change Order for Additional Work, the Parties shall jointly verify whether Pool Dollars are available for such proposed Change Order by reviewing the aggregate amount of Pool Dollars that has been allocated to Change Orders and Amendments prior to the date of the proposed Change Order.
- 8.2.3 Change Orders shall take effect, and be binding upon the Parties, only if and upon execution by the authorized representatives of each of the Parties, as specified in this Paragraph 8.2.

8.3 AMENDMENTS

For any change which affects the scope of Work, Term, Maximum Contract Sum, payments or any term or condition of this Agreement, an Amendment shall be authorized by the Board of Supervisors and executed by an authorized representative of County and an authorized representative of Contractor as set forth on Attachment A.2 (Contractor's Administration), subject in all cases to the availability of funding. Notwithstanding the foregoing, the Director may execute Amendments on behalf of County under this Paragraph 8.3 without further action required on the part of the Board of Supervisors, which do any of the following, subject in all cases to the availability of funding:

- 8.3.1 Make implementation of interconnectivity of the System Software with the State of California's CalREDIE system part of the Upgraded System; provided that such Amendment has written concurrence of DPH's Chief Executive Officer or such person's designee and CIO, and approval as to form by County Counsel.
- 8.3.2 Exercise an applicable Option Term provided for under Paragraph 9.0 (Term). In connection therewith, such Amendment may also elect to have Contractor to provide Maintenance Services, Support Services

and/or Hosting Services for the applicable Option Term, provided that (a) pricing for the Maintenance Fees, Support Fees or Hosting Fees, as the case may be, is no greater than the applicable pricing included in the Schedule of Pricing and Payments, and (b) such Amendment has written concurrence of DPH's Chief Information Officer or such person's designee and CIO, and approval as to form by County Counsel.

- 8.3.3 Adjust the available Pool Dollars among Fiscal Years; provided that such Amendment shall have approval as to form by County Counsel.
- 8.3.4 Extend the date by which Contractor is required to achieve System Acceptance for the Upgraded System; provided that such Amendment (a) shall not extend the Term and (b) shall have written concurrence of DPH's Chief Information Officer or such person's designee and CIO and approval as to form by County Counsel.
- 8.3.5 Update the Exhibits and/or Attachments during implementation as is necessary to accurately reflect the as-built Upgraded System; provided that such Amendment shall have approval as to form by County Counsel.
- 8.3.6 Engage Contractor to provide Additional Work under Paragraph 7.1.5 (Additional Work) that requires amending any term or condition of the Agreement, including any Exhibit or Attachment; provided that any such Amendment (a) uses then-available Pool Dollars, (b) includes all information required under Task 16 (Provide As-Needed Additional Work) of the Statement of Work, and (c) has written concurrence of DPH's Chief Information Officer and CIO and approval as to form by County Counsel. The Parties agree that prior to executing any proposed Amendment under this Paragraph 8.3.6, the Parties shall jointly verify whether Pool Dollars are available for such proposed Amendment by reviewing the aggregate amount of Pool Dollars or that has been allocated to Change Orders and Amendments prior to the date of the proposed Amendment.
- 8.3.7 Implement an increase in Maintenance Fees, Support Fees and/or Hosting Fees to reflect an annual cost of living adjustment, as contemplated under the Schedule of Pricing and Payments and the applicable of Paragraphs 10.3 (Maintenance Fees), 10.4 (Support Fees) or 10.5 (Hosting Fees); provided that such Amendment has approval as to form by County Counsel.
- 8.3.8 Implement reductions under Paragraph 11.0 (County's Obligation for Future Fiscal Years; Budget Reductions); provided that such Amendment has written concurrence of DPH's Chief Information Officer and CIO and approval as to form by County Counsel.

- 8.3.9 Consent to an assignment or delegation under Paragraph 38.0 (Assignment by Contractor) of Exhibit A (Additional Terms and Conditions); provided that such Amendment has approval as to form by County Counsel.

The Board of Supervisors or County's Chief Executive Officer, or designee, may require the addition and/or change of certain terms and conditions in the Agreement during the Term. County reserves the right to add and/or change such provisions as may be required by County's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Agreement shall be prepared and executed by the Director and an authorized representative of Contractor as set forth on Attachment A.2 (Contractor's Administration).

Amendments shall take effect, and be binding upon the Parties, only if and upon execution by the authorized representatives of each of the Parties, as specified in this Paragraph 8.3.

8.4 EXTENSIONS OF TIME

- 8.4.1 The Project Charter developed and maintained by Contractor under Subtask 1.1 (Develop and Present Project Charter) of the Statement of Work includes, among other things, a schedule for Contractor's completion of all Work associated with implementation of the Upgraded System. Changes to the Project Charter that extend the date by which Contractor is required to achieve System Acceptance for the Upgraded System shall be made only in accordance with Paragraph 8.3 (Amendments). All other changes to the Project Charter shall be made in accordance with the process outlined in Subtask 1.1 (Develop and Present Project Charter).
- 8.4.2 Each Change Order and Amendment for Additional Work shall include, among other things, a project schedule for completion of the Additional Work thereunder. County Project Director may grant written extensions of time for Contractor's performance of such Additional Work which shall not be unreasonably withheld, provided that such extensions shall not extend the Term.
- 8.4.3 If Contractor is able to demonstrate that County delay will cause Contractor to fail to meet any deadline for performance of any obligation provided hereunder (other than the date by which Contractor is obligated to achieve System Acceptance of the Upgraded System, which shall be addressed only as provided in Paragraph 7.4.1, then County Project Director shall grant Contractor a written extension of time for Contractor's performance commensurate with the County delay, provided that such extension shall not extend the Term.

8.5 TERMINATIONS AND REDUCTIONS

Notwithstanding any other provision of this Paragraph 8.0 or Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions), the Director shall take all appropriate action to carry out any orders of the Board of Supervisors relating to this Agreement, and, for this purpose, the Director is authorized to: (1) issue written notice(s) of partial or total termination of this Agreement pursuant to Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) without further action by the Board of Supervisors and/or (2) prepare and sign Amendments to this Agreement on behalf of County which reduce the scope of Work and the Maximum Contract Sum without further action by the Board of Supervisors.

8.5.1 Such notices of partial or total termination shall be authorized under the following conditions:

- a. Notices shall be in compliance with all applicable Federal, State, and County laws, rules, regulations, ordinances, guidelines, and directives.
- b. Notices shall have the written concurrence of County Counsel.
- c. The Director shall file a copy of all notices with the Executive Office of the Board of Supervisors and County's Chief Executive Office within fifteen (15) days after execution of each notice.

8.5.2 Such Amendments shall be authorized under the following conditions:

- a. Amendments shall be in compliance with all applicable Federal, State, and County laws, rules, regulations, ordinances, guidelines, and directives.
- b. Amendments that reduce the Maximum Contract Sum shall provide for commensurate reductions in the scope of Work.
- c. Amendments that reduce the scope of Work shall provide for commensurate reductions and/or reallocations in the Maximum Contract Sum.
- d. The Board of Supervisors has appropriated sufficient funds for purposes of such Amendments and this Agreement.
- e. Amendments shall be executed by an authorized representative of Contractor as set forth in Attachment A.2 (Contractor's Administration).
- f. Amendments shall have the written concurrence of County Counsel.

- g. The Director shall file a copy of all Amendments with the Executive Office of the Board of Supervisors and County's Chief Executive Office within fifteen (15) days after execution of each Amendment.

8.5.3 Amendments under this Paragraph 8.4 shall take effect, and be binding upon the Parties, only if and upon execution by the authorized representatives of each of the Parties, as specified in this Paragraph 8.4.

8.6 AUDIT OF ADDITIONAL WORK

County is entitled to audit, in accordance with Paragraph 40.0 (Records and Audits) of Exhibit A (Additional Terms and Conditions), Contractor's compliance with Paragraph 8.0 (Change Orders and Amendments) in respect of Work performed pursuant to any executed Change Order or Amendment.

9.0 **TERM**

9.1 DEFINITION OF TERM

The term of this Agreement shall commence upon the Effective Date and shall continue for eighty-four (84) months thereafter, unless terminated earlier in whole or in part, as provided in this Agreement ("Initial Term"). At the end of the Initial Term, County may, at its sole option, with the provision of written notice to Contractor at least ninety (90) days prior to the expiration of the then-current Term, extend this Agreement for up to three (3) additional and consecutive twelve (12) month terms (each an "Option Term"); provided that if County elects not to exercise the option to extend at the end of the Initial Term, or an Option Term, the remaining Option Terms shall automatically lapse. Notwithstanding the foregoing, County shall not have the option to renew if Contractor has delivered all written notices described under Paragraph 5.2 (Event of Default – County) of Exhibit A (Additional Terms and Conditions), and all periods described in such Paragraph required as a precondition to the termination becoming effective have expired. County's election to exercise each of the Option Terms shall be in accordance with Paragraph 8.0 (Change Orders and Amendments). As used herein, "Term" shall mean the Initial Term and each extended Option Term.

9.2 NOTICE OF EXPIRATION

Between nine (9) and six (6) months prior to the expiration of the then-current Term, Contractor shall notify County in writing that the Agreement is approaching six (6) months from the expiration of such Term. Contractor shall send such written notification to County Project Director at the address set forth in Attachment A.1 (County's Administration) of Exhibit A (Additional Terms and Conditions). If Contractor fails to provide such notice with respect to a then-current Term, then the requirement under Paragraph 9.1 that County deliver prior written notice with respect to such then-current Term in order to renew the Agreement shall be deemed

waived automatically, and County shall be permitted to exercise its option to extend such then-current Term through and including the final day of expiration thereof. Notwithstanding the foregoing, Contractor's failure to provide such notification shall not constitute a material breach of this Agreement.

10.0 PRICES AND FEES

10.1 GENERAL

The Schedule of Pricing and Payments sets forth all fees and rates that may be applicable to this Agreement during the Initial Term, including (a) a payment schedule for all Tasks and Deliverables necessary for Contractor to achieve System Acceptance for the Upgraded System, (b) the aggregate Maintenance Fees, Support Fees and Hosting Fees for the Initial Term, and (c) the Hourly Labor Rate for Additional Work. The Schedule of Pricing and Payments additionally includes pricing for Maintenance Fees, Support Fees and Hosting Fees, which shall be good for any Option Term exercised by County in accordance with this Agreement.

10.2 MAXIMUM CONTRACT SUM

10.2.1 Subject to Paragraph 7.0 (Work and System Acceptance), the "Maximum Contract Sum" under this Agreement for the Initial Term, including Pool Dollars and all applicable Taxes, shall not exceed \$3,129,703.50, which amount is allocated as set forth on the Schedule of Pricing and Payments, unless the Maximum Contract Sum is modified pursuant to an Amendment under and in accordance with Paragraph 8.0 (Change Orders and Amendments). The Maximum Contract Sum is the maximum monetary amount payable by County to Contractor for supplying all the Tasks, Subtasks, Deliverables, goods, services and other Work specified under this Agreement during the Initial Term. Contractor shall perform and complete all Work required of Contractor by this Agreement during the Initial Term in exchange for the amounts to be paid to Contractor as set forth in the Schedule of Pricing and Payments, but in any event, not in excess of the Maximum Contract Sum.

10.2.2 Notwithstanding any of the foregoing, it is understood and agreed that Contractor shall not provide any Additional Work unless and until the applicable of a Change Order or Amendment has been executed in accordance with Paragraph 8.0 (Change Orders and Amendments) with respect to such Additional Work.

10.3 MAINTENANCE FEES

10.3.1 The Schedule of Pricing and Payments includes the aggregate Maintenance Fees payable by County during the Initial Term for Contractor's provision of Maintenance Services as described in

Paragraph 7.1.2 (Maintenance Services) for the projected increased number of Users or Labs as set forth in Attachment C.1 (Maintenance Fees Detail) of the Schedule of Pricing and Payments. If and upon an increase in the number of Users or Labs beyond such projected increase, the Maintenance Fees payable by County shall increase based upon the number of Users or Labs, as the case may be, as set forth on the Schedule of Pricing and Payments. The Maintenance Fees are payable on a quarterly basis in arrears commencing with the first quarter following the Effective Date.

10.3.2 Except as expressly contemplated by Paragraph 10.3.1, the Maintenance Fees shall remain firm and fixed, and shall not increase, during the first sixty (60) months of the Initial Term of the Agreement. Thereafter the Maintenance Fees shall increase as described in Paragraph 10.8 (Cost of Living Adjustments).

10.3.3 Maintenance Fees for each Option Term, should County elect such Option Term in accordance with this Agreement, shall be determined as set forth in Attachment C.1 (Maintenance Fees Detail) of the Schedule of Pricing and Payments.

10.4 SUPPORT FEES

The Schedule of Pricing and Payments includes the aggregate Support Fees payable by County during the Initial Term for Contractor's provision of Support Services as described in Paragraph 7.1.3 (Support Services). The Support Fees are payable on a quarterly basis in arrears commencing with the first quarter following the Effective Date. The Support Fees shall remain firm and fixed, and shall not increase, during the first sixty (60) months of the Initial Term of the Agreement. Thereafter the Support Fees shall increase as described in Paragraph 10.8 (Cost of Living Adjustments). Support Fees for each Option Term, should County elect such Option Term in accordance with this Agreement, shall be determined as set forth in Attachment C.2 (Support Fees Detail) of the Schedule of Pricing and Payments.

10.5 HOSTING FEES

The Schedule of Pricing and Payments includes the aggregate Hosting Fees payable by County during the Initial Term, as provided under Paragraph 7.1.4 (Hosting Services). The Hosting Fees are payable on a quarterly basis in arrears commencing with the first quarter following the Effective Date. The Hosting Fees shall remain firm and fixed, and shall not increase, during the first sixty (60) months of the Initial Term of the Agreement. Thereafter the Hosting Fees shall increase as described in Paragraph 10.8 (Cost of Living Adjustments). Hosting Fees for each Option Term, should County elect such Option Term in accordance with this Agreement, shall be determined as set forth in Attachment C.3 (Hosting Fees Detail) of the Schedule of Pricing and Payments.

10.6 POOL DOLLARS

The Schedule of Pricing and Payments includes the pool of dollars available under this Agreement for each Fiscal Year during the Initial Term (for each Fiscal Year, "Pool Dollars") (a) for the purchase of Additional Work under Paragraph 7.1.5 (Additional Work), (b) for increased Maintenance Fees because of an increase in Users or Labs above the projected increased number of Users or Labs, as described under Paragraph 10.3.1, and (c) for increased Maintenance Fees, Support Fees and/or Hosting Fees to reflect an annual cost of living adjustment under Paragraph 10.8 (Cost of Living Adjustments). The total amount of available Pool Dollars for a Fiscal Year shall be decreased by each applicable Change Order and Amendment executed under this Agreement with respect to such Fiscal Year and, in the case of clause (b), by each payment made with respect thereto, and may only be increased by executing an Amendment in accordance with Paragraph 8.0 (Change Orders and Amendments).

10.7 TAXES

The amounts set forth on the Schedule of Pricing and Payments include all amounts necessary for County to reimburse Contractor for all applicable California and other State and local Taxes for all System Software and other Work procured by County from Contractor. County shall not be liable or responsible for reimbursement of any Taxes associated with such procurement except as set forth on the Schedule of Pricing and Payments. Contractor shall be solely liable and responsible for, and shall pay such Tax directly to, the State or other taxing authority. In addition, Contractor shall be solely responsible for (a) all Taxes due as a result of the transfer of ownership described in Paragraph 3.0 (Transfer of Ownership; Limitation of Liability), if any, (b) all Taxes based on Contractor's income or gross revenue, and (c) all personal property Taxes levied or assessed on Contractor's personal property to which County does not hold title, and, accordingly, shall not invoice County for any such Taxes.

10.8 COST OF LIVING ADJUSTMENTS

Commencing upon expiration of the sixtieth (60th) month of the Initial Term, the Maintenance Fees, Support Fees and Hosting Fees shall be adjusted annually based on any increase in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the Los Angeles – Riverside – Orange County Area for the most recently published percentage change for the twelve (12) month period preceding each anniversary date, which shall be the effective date for any such adjustment. However, any increase shall not exceed the general annual percentage salary change granted to County employees as determined by County's Chief Executive Office as of the prior July 1. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, Contractor acknowledges that there shall be no corresponding adjustment to the hourly rates for other professional services. Notwithstanding the foregoing, with respect to Maintenance Fees, if County elects the first Option Term

in accordance with this Agreement, the Maintenance Fees shall be adjusted to the amounts set forth in the Schedule of Pricing and Payments for such Option Term, and thereafter may be adjusted annually in accordance with this Paragraph 10.8.

10.9 OUT-OF-POCKET EXPENSES

Contractor shall not be entitled for reimbursement of any Out-of-Pocket Expenses.

11.0 COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS; BUDGET REDUCTIONS

- 11.1 Notwithstanding any other provision of this Agreement, either expressly or by implication, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Board appropriates funds for this Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated, and such termination shall be deemed a termination for convenience pursuant to Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions). County shall notify Contractor in writing of any such non-appropriation of funds as soon as reasonably practicable. In the event of such a termination, Contractor shall be entitled to seek payment as permitted under Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) with respect to County's termination for convenience.
- 11.2 In the event that the Board adopts, in any fiscal year, a County budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County contracts, County reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year during the term of the Agreement (including any extensions), and the Work to be provided by Contractor under the Agreement shall also be reduced correspondingly, which reduction shall be accomplished in accordance with Paragraph 8.0 (Change Orders and Amendments). County's notice to Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentences, Contractor shall continue to provide all of the Work set forth in the Agreement.
- 11.3 In order for County to maintain flexibility with regards to budget and expenditure reductions, Contractor agrees that Director may terminate this Agreement, without cause, upon the giving of ten (10) calendar days written notice to Contractor; or Director may consistent with Federal, State, and/or County budget reductions, renegotiate the scope/description of Work, Maximum Contract Sum, and budget of this Agreement via an Amendment , as mutually agreed to and executed by the parties in accordance with Paragraph 8.0 (Change Orders and Amendments). In the event of such a termination, Contractor shall be entitled to seek payment as

permitted under Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) with respect to County's termination for convenience.

12.0 INVOICES AND PAYMENTS

12.1 APPROVAL OF INVOICES

All invoices submitted by Contractor for payment must have the written approval of County Project Director prior to any payment thereof, which written approval shall not be unreasonably withheld or delayed. In no event shall County be liable or responsible for any payment prior to such written approval. Subject to County's rights to liquidated damages, credits and withholds under this Agreement and to the completion of the procedure described in Paragraph 12.6 (Invoice Discrepancy Report), County will pay the undisputed amounts shown in a properly prepared invoice within thirty (30) days of County's approval thereof under this Paragraph 12.1.

12.2 SUBMISSION OF INVOICES

Contractor shall invoice County for Maintenance Fees, Support Fees and Hosting Fees quarterly, in arrears. Upon County's written approval thereof in accordance with the applicable provisions of Paragraph 7.0 (Work and System Acceptance), Contractor shall invoice County for Additional Work specified in, and in accordance with, any Change Order or Amendment.

Contractor shall mail an original and shall submit one (1) copy by mail, facsimile or electronic mail transmission of the invoice for payment for services to the following addresses:

ORIGINAL:

County Project Director at the address indicated on Attachment A.1 (County's Administration) to Exhibit A (Additional Terms and Conditions).

COPY:

County's Grant Administrator at the address indicated on Attachment A.1 (County's Administration) to Exhibit A (Additional Terms and Conditions)

12.3 INVOICE DETAIL

Each invoice submitted by Contractor shall include:

- 12.3.1 For Maintenance Fees, Support Fees and Hosting Fees, the amount of payment therefor;
- 12.3.2 For Additional Work: (a) the date of the applicable executed Change Order or Amendment; (b) a copy of the applicable fully executed Deliverable Acceptance Form; (c) an indication of personnel hours used as compared to the estimated personnel hours indicated in the Change Order or Amendment; (d) any additional supporting documentation reasonably requested by County Project Director; and (e) the amount of payment therefor (reference Task 16 (Provide As-Needed Additional Work) of the Statement of Work for the fixed price payment schedule unless otherwise agreed to in applicable Change Order or Amendment);
- 12.3.3 If applicable, the cumulative amount of Pool Dollars charged to County to date during the applicable Fiscal Year and the remaining Pool Dollars available for use in connection with this Agreement generally for such Fiscal Year;
- 12.3.4 To the best of Contractor's knowledge, an indication of any liquidated damages, credits or withholds accrued under this Agreement; and
- 12.3.5 Any other supporting documentation reasonably requested by County Project Director.

12.4 LIQUIDATED DAMAGES

- 12.4.1 If (a) Contractor fails (i) to achieve System Acceptance for the Upgraded System by the date required by this Agreement (as such date may be extended under and in accordance with this Agreement) or (ii) following execution of a Change Order or Amendment therefor under Paragraph 7.1.5 (Additional Work), to complete and deliver all Tasks, Subtasks, Deliverables, goods, services and other Work required to fully implement interconnectivity of the System Software with the State of California's CalREDIE system by the date required by such Change Order or Amendment (as such date may be extended under and in accordance with this Agreement), or (b) County terminates this Agreement with respect to the affected components of the Upgraded System or the Upgraded System as a whole as is permitted under Paragraph 7.4.4, then it is mutually understood and agreed that the nature of the resultant damages will be extremely difficult and impractical to fix. County and Contractor have endeavored to fix the amount of such damages in advance; such that the amounts set forth hereinafter are the nearest and most exact measures of such damages for such breach that can be fixed at or after such breach; and that, therefore, County and Contractor hereby

fix the liquidated damages set forth hereinafter, not as a penalty or forfeiture for breach of this Agreement.

12.4.2 In connection with Contractor's obligation to achieve System Acceptance for the Upgraded System by the date required by this Agreement (as such date may be extended under and in accordance with this Agreement), following delivery by County of written notification to Contractor, Contractor agrees to pay County as liquidated damages one thousand dollars (\$1,000) per day that Contractor continues in default following the date required by this Agreement or until the effective date of termination of this Agreement, whichever occurs sooner. Notwithstanding the foregoing, Contractor shall not be liable for liquidated damages under this Paragraph 12.4.2 to the extent that Contractor's failure to perform results from (a) County delay, provided that a Notice of Delay has been filed in accordance with Paragraph 54.0 (Notice of Delay) of Exhibit A (Additional Terms and Conditions), or (b) events described in Paragraph 16.0 (Force Majeure) of Exhibit A (Additional Terms and Conditions).

12.4.3 In connection with Contractor's obligation following execution of a Change Order or Amendment therefor under Paragraph 7.1.5 (Additional Work), to complete and deliver all Tasks, Subtasks, Deliverables, goods, services and other Work required to fully implement interconnectivity of the System Software with the State of California's CalREDIE system by the date required by such Change Order or Amendment (as such date may be extended under and in accordance with this Agreement), following delivery by County of written notification to Contractor, Contractor agrees to pay five hundred dollars (\$500) per day that Contractor continues in default following the required date set forth in the applicable Change Order or Amendment for completion and delivery of all Work thereunder or until the effective date of termination of this Agreement, whichever occurs sooner.

1. Notwithstanding the foregoing, Contractor shall not be liable for liquidated damages under this Paragraph 12.4.3 to the extent that Contractor's failure to perform results from (a) County delay or events described in Paragraph 16.0 (Force Majeure) of Exhibit A (Additional Terms and Conditions), or (b) delay on the part of the State of California in completing any portion of the CalREDIE system that is necessary in order for Contractor to complete interconnectivity of the System Software with the CalREDIE with no fault of Contractor.
2. In the event that the Parties enter into an Amendment in accordance with this Agreement making implementation of

interconnectivity of the System Software with CalREDIE part of the Upgraded System, then delay in such implementation shall be considered delay achieving System Acceptance for the Upgraded System under Paragraph 12.4.2, and this Paragraph 12.4.3 shall thereafter have no independent force or effect.

- 12.4.4 In connection with Contractor's obligation to successfully complete the Acceptance Period for the Upgraded System as described in Paragraph 7.4 (System Acceptance), following delivery by County of written notification of termination to Contractor under Paragraph 7.4.4, Contractor agrees to pay a lump sum of \$3,200,000. Notwithstanding the foregoing, Contractor shall not be liable for liquidated damages under this Paragraph 12.4.4 to the extent that Contractor's failure to perform results from (a) County delay, provided that a Notice of Delay has been filed in accordance with Paragraph 54.0 (Notice of Delay) of Exhibit A (Additional Terms and Conditions), or (b) events described in Paragraph 16.0 (Force Majeure) of Exhibit A (Additional Terms and Conditions).
- 12.4.5 A Deliverable shall be deemed completed for purposes of this Paragraph 12.4 on the earliest date that all of the Tasks, Subtasks, Deliverables, goods, services and other Work required for the completion of such Deliverable are completed and delivered to County, provided that all of such Tasks, Subtasks, Deliverables, goods, services and other Work required for the completion of such Deliverable are thereafter approved in writing by County pursuant to the applicable provisions of Paragraph 7.0 (Work and System Acceptance).
- 12.4.6 Payment of such liquidated damages that accrue pursuant to this Paragraph 12.4 shall be made, at Director's election, within thirty (30) days of any and all demands for such payment (which demand may be for all or less than all of the liquidated damages that have accrued through the date of any such notice), or by the application of a credit against Contractor's invoices. In the event Contractor fails to promptly apply such credit, then County may deduct such payment amount from any amounts due to Contractor under this Agreement.
- 12.4.7 Director has the authority, in such person's sole discretion, to determine not to apply liquidated damages in connection with a particular occurrence with respect to which County is entitled to liquidated damages under any of Paragraphs 12.4.2, 12.4.3, and/or 12.4.4. If the Director determines not to apply liquidated damages in connection with a particular occurrence, such determination does not obligate Director in any respect to make a similar determination with respect to any other occurrence. Failure by County to enforce at any

time, or from time to time, this Paragraph 12.4 shall not be construed as a waiver hereof.

12.5 NO PARTIAL OR PROGRESS PAYMENTS

Subject to Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) and except with regard to Maintenance Services, Support Services and Hosting Services, or as expressly agreed in an executed Change Order or Amendment, Contractor shall be entitled to payment in respect of any Task, Subtask or Deliverable or other Work, only upon successful completion by Contractor and approval by County of such Task, Subtask or Deliverable or other Work. Subject to Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) and except with regard to Maintenance Services, Support Services and Hosting Services, or as expressly agreed in an executed Change Order or Amendment, no partial or progress payments towards anticipated or substantial completion of Tasks, Subtask or Deliverables or other Work, will be made under this Agreement.

12.6 INVOICE DISCREPANCY REPORT

County Project Director shall review all invoices for any discrepancies and issue an “Invoice Discrepancy Report” or “IDR”, a form of which is attached hereto as Exhibit H (Invoice Discrepancy Report), to Contractor within thirty (30) days of receipt of invoice if payment amounts are disputed. Contractor shall review the disputed charges and send a written explanation detailing the basis for the charges within thirty (30) days of receipt of the IDR from County Project Director. If County Project Director does not receive a written response within thirty (30) days of County’s notice to Contractor of an IDR, then County payment will be made, less the disputed charges. Contractor shall be deemed to have agreed to the alleged discrepancy and/or to have otherwise waived Contractor’s right to pursue the disputed amounts from County at law and in equity if Contractor does not send a written explanation detailing the basis for the disputed charges within thirty (30) days from the date on which County’s payment is deemed given under Paragraph 19.0 (Notices) based upon the method of delivery.

12.7 COUNTY’S RIGHT TO WITHHOLD

Notwithstanding any other provision of this Agreement, and in addition to any rights of County provided in this Agreement, or at law or in equity, County may upon written notice to Contractor withhold payment for any Work while Contractor, with no fault of County, as reasonably determined by County Project Director subject to the Dispute Resolution Procedure, is in default hereunder. Provided, however, this provision shall not apply in the case of non-material defaults, in which case undisputed amounts unrelated to the non-material default may not be withheld.

13.0 OWNERSHIP AND LICENSE

13.1 OWNERSHIP

13.1.1 County acknowledges that, as between County and Contractor, as of the Effective Date and for all times thereafter, all Intellectual Property Rights, title and interest, in and to the System Software, including related Documentation, provided to County pursuant to this Agreement, other than Third Party Software (which shall remain the property of the applicable third party, subject to County's License), or any changes or modifications to such System Software, including related Documentation, will be and shall remain the exclusive property of Contractor. All such System Software and Documentation are subject to the License granted to County pursuant to this Paragraph 13.0 (Ownership and License). Ownership of the County Materials is addressed in Paragraph 15.0 (Proprietary Considerations) of Exhibit A (Additional Terms and Conditions).

13.1.2 Except as explicitly provided in this Agreement, nothing in this Agreement is intended to restrict the Intellectual Property Rights of Contractor or any third party owner of any portion of the System Software. Ownership of all intellectual property developed, originated, or prepared by Contractor in connection with providing to County all Deliverables or related services under this Agreement is as set forth in this Paragraph 13.0 and in Paragraph 15.0 (Proprietary Considerations) of Exhibit A (Additional Terms and Conditions), and this Agreement does not grant to County any shared development rights of intellectual property. Except as explicitly provided in this Agreement, nothing in this Agreement will be deemed to grant to County, either directly or by implication, estoppel, or otherwise, any right, title or interest in Contractor's or any third party's rights.

13.1.3 To the extent any funding source used by County to pay for Work under this Agreement purports to grant to County, any County licensee or any other third party, Intellectual Property Rights in the System Software and related Documentation that are inconsistent with this Paragraph 13.1 or the License, then County and Contractor intend that, with respect to such funding source, the System Software and related Documentation be treated as the applicable of "commercial computer software" under the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 or "cosponsored research and development activities" under the Cosponsored Research and Development Activities clause at FAR 27.408, and therefore that County's, County's licensee or said third party's use, duplication or disclosure of the System Software and/or related Documentation or other affected intellectual property under Contractor's copyrights or trade secret rights is subject to the restrictions set forth in: (a) subparagraphs (b)(1) and (2) of FAR 52.227-19; or (b) subparagraphs

(a) and (b) of FAR 27.408; all as applicable. The System Software and related Documentation shall include the restricted rights notice referenced in Paragraph 15.3 of Exhibit A (Additional Terms and Conditions).

13.2 SCOPE OF LICENSE

Subject to Paragraph 13.1 (Ownership), Contractor grants to County, effective upon the Effective Date, a perpetual, nonexclusive, non-sublicensable, irrevocable (except as expressly provided for in Paragraph 8.0 (Effect of Termination) of Exhibit A (Additional Terms and Conditions) and other provisions referenced therein) license ("License"):

- 13.2.1 To use, operate and execute the System Software for County's governmental purposes on an unlimited number of computers, servers, local area networks and wide area networks for use by an unlimited number of Users and Labs, subject to Paragraph 10.3 (Maintenance Fees);
- 13.2.2 To configure the configurable aspects of the System Software;
- 13.2.3 To use, modify, copy and display the Documentation, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License;
- 13.2.4 To use, modify, copy, translate and compile the Source Code and to install the System Software and to integrate the System Software with other software, in each case, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License; provided, however, that without limiting the rights granted pursuant to Paragraph 14.0 (Source Code), County covenants and agrees that it shall not exercise any of the rights contained in this Paragraph 13.2.4 unless and until the occurrence of any Release Condition; and
- 13.2.5 To permit third party access (in addition to Users and Labs but in no event to a competitor of Contractor) to the System, Documentation, Source Code, or any part thereof, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License, including for the provision of Maintenance Services, Support Services, Hosting Services or other operational use or support of the System Software; provided, however, that without limiting the rights granted pursuant to Paragraph 14.0 (Source Code), County covenants and agrees that it shall not exercise any of the rights contained in this Paragraph 13.2.5 unless and until the occurrence of any Release Condition. Notwithstanding the foregoing, in the event of no viable alternative, County shall be

permitted to grant to a competitor of Contractor access to the System, Documentation, Source Code, or any part thereof, if necessary for County to enjoy and fully exercise the rights granted under this Agreement and the License, including for the provision of Maintenance Services, Support Services, Hosting Services or other operational use or support of the System Software.

13.3 LICENSE RESTRICTIONS

County acknowledges and agrees (i) that the System Software provided by Contractor to County under the Agreement, including related Documentation, is the confidential and copyrighted property of Contractor, or its licensors, and all rights therein not expressly granted to County are reserved to Contractor, or its licensors, as applicable; and (ii) that Contractor, or its licensors, retain all Intellectual Property Rights in and to the foregoing. Subsequently, County's License hereunder is limited by the restrictions set forth in this Paragraph 13.3 below. County will not:

13.3.1 Reverse engineer, disassemble or decompile the System Software provided by Contractor, except as permitted under Paragraph 13.2.4 and/or Paragraph 13.2.5;

13.3.2 Transfer, sublicense, rent, lease, convey or assign the System Software provided by Contractor;

13.3.3 Copy or reproduce the System Software provided by Contractor in any way except as reasonably necessary for backup, archival or business continuity purposes;

13.3.4 Use the System Software provided by Contractor on a timesharing, service bureau, subscription service or rental basis for any third party (other than as permitted with respect to DPH Partners as Users and/or Labs);

13.3.5 Remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on, or during the use of, the System Software provided by Contractor.

13.4 LICENSE TO CENTERS FOR DISEASE CONTROL AND PREVENTION

Upon written request by County, Contractor shall grant to the CDC, a non-exclusive, non-sublicensable license to use the vCMR Software solely for the CDC's own internal governmental purposes. Such license shall be at no license cost to County or the CDC and shall be pursuant to a separate contract as agreed to by Contractor and the CDC.

14.0 SOURCE CODE

14.1 SOURCE CODE ESCROW

- 14.1.1 Contractor, at its own expense, has named County as a beneficiary under the source code escrow agreement attached hereto as Exhibit N (Source Code Escrow Agreement) (in this Paragraph 14.0 "Escrow Agreement"), between Contractor and Iron Mountain Intellectual Property management, Inc. (in this Paragraph 14.0 "Escrow Agent"). The Director has authority to execute on behalf of County any forms required by the Escrow Agent in order for County to appear as a beneficiary under such Escrow Agreement. In the event that the Escrow Agreement expires or terminates, or Contractor otherwise desires to change the escrow agent, Contractor shall obtain at its own expense, a replacement source code escrow agreement with another source code escrow company, on substantially the same terms with respect to County as the Escrow Agreement. Such replacement source code escrow agreement and source code escrow company shall thereafter constitute the "Escrow Agreement" and "Escrow Agent," respectively, for all purposes under this Paragraph 14.0. Subject to this Paragraph 14.1, Contractor shall maintain the Escrow Agreement in full force and effect throughout the Term.
- 14.1.2 As soon as available and continuously during the Term of the Agreement, Contractor shall deposit with the Escrow Agent the Source Code for all Application Software. In addition, Contractor shall also deposit with the Escrow Agent the Source Code for any and all Additional Products, Additional Modifications, Additional Interfaces, Updates and Version Releases to the Application Software promptly after delivery to County, for any reason whatsoever, of the corresponding object code. Contractor's duty to deposit the Source Code under this Agreement shall continue throughout the Term. Contractor shall keep all deposited Source Code current and equivalent to the version of the applicable System Software then being used by County. Notwithstanding the foregoing, with respect to the Source Code Third Party Software, such Source Code shall only be required to be deposited if it is actually available to Contractor; otherwise, Contractor shall deposit executable versions of such Third Party Software, together with licenses thereto, and shall keep such executable versions current with the versions then used by County.
- 14.1.3 The parties acknowledge that as a result of the passage of time alone, the deposited Source Code may be susceptible to loss of quality ("Natural Degeneration"). For the purpose of reducing the risk of Natural Degeneration, during the Term, Contractor shall provide the Escrow Agent a new copy of all deposited Source Code upon request, but no more frequently than every twelve (12) months, unless earlier replacements are necessitated due to the condition of the previously deposited Source Code. In the event the Source Code or any part of it is destroyed or corrupted, upon County Project Director's request,

Contractor shall provide a replacement copy of the Source Code to the Escrow Agent.

14.2 RELEASE CONDITIONS

In addition to the conditions for release of Source Code identified in the Escrow Agreement, Contractor shall cause the release of the Source Code to County, and County shall have the right to immediately begin using the Source Code in accordance with the License and Paragraph 14.4 (Use and Possession of Source Code), upon the occurrence of any of the events identified below during the Term of this Agreement (collectively "Release Conditions"):

14.2.1 The occurrence of an event that would give rise to County's ability to terminate pursuant to Paragraph 4.0 (Termination for Insolvency) of Exhibit A (Additional Terms and Conditions);

14.2.2 Contractor ceases to do business without a permitted successor, or if there is such a successor, before such successor commences to continue Contractor's business; or

14.2.3 Contractor ceases to provide Maintenance Services or Support Services pursuant to Paragraph 7.1.2 (Maintenance Services) or Paragraph 7.1.3 (Support Services) other than for: (a) County's failure to pay any applicable fees in accordance with this Agreement; or (b) County's termination of this Agreement for County's convenience under Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions).

Upon occurrence of any of the Release Conditions, Contractor agrees to execute with County and submit to the Escrow Agent joint written instructions (or any equivalent form specified in the Escrow Agreement) for releasing the Source Code to County. Notwithstanding the foregoing, County alone may file for release of the Source Code if it believes in good faith that a Release Condition has occurred, subject to the provisions of the Escrow Agreement.

14.3 COUNTY'S RIGHT TO VERIFY SOURCE CODE

Regardless of whether one of the Release Conditions occurs, County shall have the right to verify, through Escrow Agent or Contractor, the relevance, completeness, currency, accuracy and functionality of the Source Code by, among other things, compiling the Source Code and performing test runs for comparison with the applicable System Software. In the event such testing demonstrates that the Source Code does not correspond to the applicable System Software, Contractor shall reimburse County for all reasonable out-of-pocket costs and fees incurred in the testing and immediately deposit the correct Source Code.

14.4 USE AND POSSESSION OF SOURCE CODE

Subject to the provisions of the License, Source Code obtained by County under the provisions of this Agreement shall remain subject to every License restriction, proprietary rights protection, and other County obligation specified in this Agreement. County may use Source Code for the sole purpose as it is Licensed hereunder, including maintaining, supporting and hosting the System. Should use of the Source Code involve the use or practice of any patent, copyright, trade secret, trademark or other Intellectual Property Right in which Contractor has an interest, Contractor, on behalf of itself and its assignees and successors, agrees not to assert a claim for infringement against County or any User, provided use of the Source Code is in accordance with this Agreement.

14.5 ESCROW AGREEMENT AMENDMENT

As between County and Contractor, this Paragraph 14.0 shall constitute an amendment to the Escrow Agreement and incorporate all of the Release Conditions identified in Paragraph 14.2 (Release Conditions) above.

15.0 **MINIMUM SYSTEM REQUIREMENTS**

- 15.1 Exhibit E (Minimum System Requirements) includes the minimum requirements for end user hardware and software configurations and network configurations that are Compatible with the System Software and are required for County to enjoy and exercise fully its rights in respect of the System Software (referred to as the "County Environment") as of the Effective Date.
- 15.2 Under Statement of Work, Contractor is required to provide an analysis of the existing County Environment, which shall review the County Environment and make any recommended changes to the minimum hardware, software and/or network configuration requirements as shall be Compatible with the System Software as upgraded by the Upgraded System, and are required for County to enjoy and exercise fully its rights in respect of the System Software as upgraded by the Upgraded System. Recommendations included in such analysis are limited as set forth in Subtask 3.1 (Analyze Existing County Environment). Upon System Acceptance for the Upgraded System, the minimum system requirements for the County Environment included in such analysis shall be deemed to update Exhibit E (Minimum System Requirements) for all purposes under this Agreement.
- 15.3 Additionally under the Service Level Requirements, Contractor is permitted to revise the minimum hardware, software and/or network configuration requirements as shall be Compatible with new Version Releases, subject to the limitations set forth in the Service Level Requirements. Upon County's approval in accordance with this Agreement of the any revised minimum hardware, software and/or network configuration requirements under the Service Level Requirements, such revised minimum hardware, software and network configuration requirements shall be

deemed to update Exhibit E (Minimum System Requirements) for all purposes under the Agreement.

16.0 THIRD PARTY SOFTWARE

Contractor's use of Third Party Software in order to satisfy the requirements of this Agreement with respect to the System is subject to the provisions of this Paragraph 16.0 as specified below.

- 16.1 Contractor represents and warrants that none of the System Software, other than any software specifically identified as being owned by third parties on Exhibit D (Description of System Software) (collectively "Third Party Software"), is owned by third parties. Contractor represents and warrants that the Third Party Software shall be Compatible with all other components of the System Software to the degree necessary to fulfill the System Requirements and other Specifications.
- 16.2 Contractor represents and warrants that it has not modified and shall not modify, nor does Contractor have any need to modify, Third Party Software in order for the System Software to fully perform in accordance with the System Requirements and other Specifications. Contractor represents and warrants that Third Party Software shall, together with the remainder of the System Software, satisfy the System Requirements and other Specifications without the need for any modification of Third Party Software by Contractor or otherwise.
- 16.3 To the extent that any third party license agreement with respect to the Third Party Software conflicts with the License or otherwise with this Agreement, or in any way restricts County's full use and enjoyment of the System Software as contemplated herein, Contractor shall take all necessary action and pay all sums required for County to fully enjoy all the rights and benefits in respect of the System Software granted under this Agreement. Contractor shall promptly and at no cost to County, either: (a) obtain a license from the appropriate third party which shall enable Contractor to modify such Third Party Software, and Contractor shall provide all necessary modifications; or (b) to the extent that Contractor is unable to obtain such a license, provide an Update, Version Release or alternative solution, which is functionally equivalent, in the reasonable determination of County Project Director or designee, in lieu of modifying such Third Party Software.
- 16.4 Contractor shall assign to County to the fullest extent permitted by law or by Agreement that the benefits of any applicable warranty or indemnity offered by any manufacturer of any Third Party Software or any other product or service provided hereunder shall fully extend to and be enjoyed by County.

17.0 CONTINUOUS PRODUCT SUPPORT

If (a) Contractor assigns or transfers this Agreement to a permitted assignee and subsequent to such assignment, the System Software or any component thereof is not supported to at least the same level that Contractor supported the System

Software as reasonably determined by County Project Director or (b) with or without an assignment, if County, upon eighteen (18) months prior written request by Contractor and at County's sole discretion, waives Contractor's obligation to continue providing Maintenance Services or Support Services in respect of the System Software or any component thereof, then in either instance County, at its option and without limiting or altering its rights under the License or its rights to the Source Code, County may elect to transfer the License, without cost or penalty, to another similar product ("Replacement Product") within Contractor's, or Contractor's permitted assignee's, if applicable, product offering. The assignee, by taking benefit (including, without limitation, acceptance of any payment under this Agreement) shall be deemed to have ratified this Paragraph 17.0. All terms and conditions of this Agreement shall continue in full force and effect for the Replacement Product. In addition, the following terms and conditions shall apply if County elects to transfer the license to a Replacement Product:

- 17.1 If County exercises the rights under the foregoing paragraph, Contractor, or permitted assignee, shall, at no cost to County, provide License for and implement the Replacement Product, convert and migrate all of County's System data from the System Software format to the Replacement Product format to ensure Production Use of such Replacement Product;
- 17.2 Any prepaid Maintenance Fees, Support Fees and/or Hosting Fees shall transfer in full force and effect for the balance of the Replacement Product's Maintenance Services, Support Services and/or Hosting Services term (or equivalent service) at no additional cost. If the prepaid moneys are greater than the Replacement Product's Maintenance Fees, Support Fees and/or Hosting Fees for the same term, the credit balance shall be applied to future Maintenance Fees, Support Fees and/or Hosting Fees, or returned to County, at County's option;
- 17.3 All County Users and support personnel shall receive reasonable training for purposes of learning the Replacement Product. Training shall be provided at no additional cost to County;
- 17.4 Any and all units of the Replacement Product or otherwise offered separately, and needed to match the original System Software's level of functionality or Specifications in all material respects, as determined by County's Project Director, shall be supplied by Contractor's permitted assignee without additional cost or penalty and shall not affect the calculation of any Maintenance Fees and/or Hosting Fees;
- 17.5 All License terms and conditions shall remain as granted herein with no additional fees imposed on County; and
- 17.6 The definition of System Software shall then include the Replacement Product.

18.0 CONTRACTOR'S OFFICES

Contractor's business offices are located at 26679 West Agoura Road, Suite 200, Calabasas, CA 91302. Contractor shall notify County of any change in its business address at least ten (10) Business Days prior to the effective date thereof.

19.0 NOTICES

- 19.1 All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties identified on the applicable of Attachment A.1 (County's Administration) or Attachment A.2 (Contractor's Administration), in each case, of Exhibit A (Additional Terms and Conditions) and delivered: (a) by hand with signed receipt; (b) by first-class registered or certified mail, postage prepaid; (c) by facsimile or electronic mail transmission followed within one (1) Business Day by a confirmation copy mailed by first-class registered or certified mail, postage prepaid; or (d) by overnight commercial carrier, with signed receipt. Notice is deemed given at the time of signed receipt in the case of hand delivery, three (3) Business Days after deposit in the United States mail as set forth above, on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing, or on the date of signature receipt by the receiving part of any overnight commercial carrier delivery. Addresses may be changed by either party giving ten (10) Business Days prior notice in accordance with the procedures set forth above, to the other party.
- 19.2 The Director shall have the authority to issue all notices or demands, which are required or permitted by County under this Agreement.

20.0 ARM'S LENGTH NEGOTIATIONS

This Agreement is the product of an arm's length negotiation between Contractor and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. Accordingly, this Agreement is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.

21.0 MUTUAL RELEASE

- 21.1 As of the Effective Date, each party releases the other party and its subsidiaries, affiliates, assigns and successors and their past, present and future owners, officers, shareholders, directors and agents, employees and representatives from any and all claims, damages, lawsuits, injuries, liabilities and causes of action, whether known or unknown, related to the Prior Agreements. The parties further agree that this release does not apply to, and is not a release, of any claims either party may have, now or in the future, in respect of this Agreement or the County ICS Agreement.
- 21.2 Each of the parties acknowledges that it is familiar with Section 1542 of the California Civil Code which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

- 21.3 The parties hereto, and each of them, expressly waive and relinquish any right or benefit which they have or may have under Section 1542 of the Civil Code of the State of California or any similar provision under the laws of any other jurisdiction to the full extent that they may lawfully waive all such rights and benefits pertaining to the subject matter of this Paragraph 21.0.

22.0 SURVIVAL

The following Paragraphs of this Agreement shall survive its expiration or termination for any reason: (a) Paragraphs 1.0, 2.0, 3.0, 7.3, 12.1, 12.4, 12.7, 13.0, 14.0 (only if a Release Condition has occurred during the Term), 19.0, 20.0, 21.0, and 22.0 of the Base Agreement; (b) Paragraphs 1.3.1, 2.0, 3.0, 4.0, 5.0, 6.0, 8.0, 12.0, 13.0, 14.0, 15.0, 16.0, 18.2, 19.0 (indemnification obligation only), 21.2, 40.0, 41.0, 43.0, 49.0, 57.2, 58.0 through 61.0 set forth in Exhibit A (Additional Terms and Conditions); and (c) any other terms of this Agreement that are intended, by their express content, to survive termination of the Agreement.

* * * * *

[Following Page for Execution]

IN WITNESS WHEREOF, Contractor has executed this Agreement and County, by order of its Board of Supervisors has caused this Agreement to be executed on its behalf by the Director of the County's Department of Public Health, the day and year first above written.

COUNTY OF LOS ANGELES

By: _____
Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

CONTRACTOR

ATLAS DATABASE SOFTWARE CORP.,
d/b/a Atlas Development Corporation

By: _____

Name: _____

Title: _____

APPROVAL AS TO FORM:

ANDREA SHERIDAN ORDIN,
County Counsel

By: _____
Amanda M.L. Drukker
Senior Deputy County Counsel

APPROVED AS TO CONTRACT
ADMINISTRATION:

By: _____
Patricia Gibson, Chief
Contracts and Grants Division

EXHIBIT A
ADDITIONAL TERMS AND CONDITIONS
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ATTACHMENTS

- A.1 COUNTY'S ADMINISTRATION
- A.2 CONTRACTOR'S ADMINISTRATION

EXHIBIT A
ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to, and form a part of, the Agreement. Capitalized terms not otherwise defined in this Exhibit A (Additional Terms and Conditions) (as used herein, this "Exhibit") have the meanings given to such terms in the Base Agreement.

1.0 SUBCONTRACTING

1.1 GENERAL

In entering into this Agreement, County has relied on the reputation, and on obtaining the performance, of Contractor itself. Consequently, no performance of the Agreement, or any portion thereof, shall be subcontracted by Contractor, except in accordance with the procedures set forth in this Paragraph 1.0, which consent shall not be unreasonably withheld. Any attempt by Contractor to subcontract any performance, obligation, or responsibility under the Agreement, except in accordance with the procedures set forth in this Paragraph 1.0, shall be null and void and shall constitute a material breach of the Agreement, upon which County may terminate the Agreement in accordance with Paragraph 5.0 (Event of Default) of this Exhibit. Notwithstanding the foregoing, County's prior written consent shall not be required prior to Contractor entering into a subcontract with (a) a Related Company as defined in Paragraph 38.0 (Assignment by Contractor), or (b) a third party in order to provide individuals to augment Contractor's staff performing Work hereunder (other than Contractor's Key Personnel); provided that, in the case of clause (b), the subcontract, either alone or when taken together with other subcontracts, does not subcontract a complete portion of Work under this Agreement (collectively in this Paragraph 1.0, "Permitted Subcontractors").

1.2 PROCEDURE FOR SUBCONTRACTING

- 1.2.1 If Contractor desires to subcontract any portion of its performance, obligations, or responsibilities under the Agreement to any subcontractor other than as specifically set forth in Paragraph 1.1 with respect to Permitted Subcontractors, Contractor shall adhere to the following procedures:
- (a) Contractor shall provide a notice to County Project Director of its desire to subcontract a portion of the Work, which notice shall include:

- (i) the reason for the proposed subcontract and a description of the Work to be performed under the proposed subcontract;
 - (ii) the identity of such subcontractor and a statement of qualifications;
 - (iii) a draft copy of the proposed subcontract. The provisions of any approved subcontract between Contractor and a third party may be materially changed or amended, as applicable, only with the prior written approval of the County Project Director, which approval shall not be unreasonably withheld; and
 - (iv) any other information and/or certifications reasonably requested by County.
- (b) The County Project Director will review Contractor's request to subcontract and determine, in such person's reasonable discretion, whether or not to consent to such request on an individual basis. Without limiting in any way County's prior approval rights, Contractor shall deliver to the County Project Director a fully executed copy of each subcontract entered into by Contractor pursuant to this Paragraph 1.2.1 on or immediately after the effective date of the subcontract, but in no event later than the date any Work is performed under the subcontract.

1.2.2 Notwithstanding Paragraph 1.2.1, in the event of a bona fide emergency impacting upon the functionality of the System Software, as reasonably determined by County Project Director, the procedures set forth in Paragraph 1.2.1 shall be reasonably relaxed, as determined by County Project Director, in order for Contractor to respond and take such action as reasonably necessary, subject to subsequent remedial measures by Contractor to restore compliance with the Agreement as soon as commercially practicable, this latter time constraint being of the essence. For purposes of this Paragraph 1.2.2, the Parties agree the following shall constitute a "bona fide emergency impacting upon the functionality of the System Software:" (a) the occurrence of a Deficiency of Severity Level Critical as defined in the Service Level Requirements; (b) the occurrence of a Security Incident as defined in Paragraph 11.0 (General Warranties and Covenants) of this Exhibit; and (c) the occurrence of an event that would obligate Contractor to commence performance of Disaster Recovery Services under and as defined in the Services Level Requirements.

- 1.2.3 With respect to all subcontractors, including Permitted Subcontractors, Contractor shall provide a certificate of insurance from Contractor or the subcontractor, which establishes maintenance of all the programs of insurance required under Paragraph 13.0 (Insurance and Performance Security) of this Exhibit with respect to subcontractors.
- 1.2.4 With respect to all subcontractors, including Permitted Subcontractors, Contractor shall obtain an executed Acknowledgment, Confidentiality, and Assignment Agreement (see Exhibit J (Acknowledgement, Confidentiality and Assignment Agreement)) or comparable agreements at least as protective of the County as Exhibit J, for each of subcontractor's employees performing Work under the subcontract, with such changes as are approved in advance by County Project Director in writing. Such agreements shall be delivered to the County Project Director on or immediately after the effective date of the particular subcontract but in no event later than the date any such employee commences performing Work under the subcontract.

1.3 CONTRACTOR RESPONSIBILITIES

- 1.3.1 Notwithstanding any County consent to any subcontracting (whether under Paragraphs 1.1, 1.2.1 or 1.2.2 above), Contractor shall remain responsible for any and all performance required under the Agreement, including the obligation properly to supervise, coordinate, and perform, all Work required hereunder, and no subcontract shall bind or purport to bind County. Further, County approval of any subcontract shall not be construed to limit in any way Contractor's performance, obligations or responsibilities to County. Contractor shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from and against any and all liability in any way arising from, connected with, or related to Contractor's subcontractors' acts, errors or omissions, whether Permitted Subcontractors or otherwise.
- 1.3.2 In the event that County consents to any subcontracting (whether under Paragraphs 1.1, 1.2.1 or 1.2.2 above), such consent shall be subject to County's right to reject any and all subcontractor staff providing services under such subcontract in accordance with Paragraph 6.4 (Approval of Contractor's Staff) of the Base Agreement.
- 1.3.3 In the event that County consents to any subcontracting (whether under Paragraphs 1.1, 1.2.1 or 1.2.2 above), Contractor shall

cause the subcontractor, on behalf of itself, its successors and administrators, to assume and be bound by and shall be deemed to have assumed and agreed to be bound by each and all of the provisions of the Agreement and any executed Change Order or Amendment hereto as it relates to or affects the Work performed by subcontractor hereunder.

- 1.3.4 Contractor shall be solely liable and responsible for any and all payments and other compensation to all subcontractors and their officers, employees, and agents, whether Permitted Subcontractors or otherwise. County shall have no liability or responsibility whatsoever for any payment or other compensation for any subcontractors or their officers, employees, and agents.

2.0 DISPUTE RESOLUTION PROCEDURE

2.1 GENERAL

Contractor and County agree to act immediately to resolve mutually any disputes that may arise with respect to the Agreement. All such disputes shall be subject to the provisions of this Paragraph 2.0 (such provisions are collectively referred to as the "Dispute Resolution Procedures"). Time is of the essence in the resolution of disputes.

2.2 CONTINUED WORK

Subject to County's and Contractor's express rights under the Agreement, Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance the parties mutually determine should be delayed as a result of such dispute.

2.3 DISPUTE RESOLUTION PROCESS

In the event of any dispute between the parties with respect to the Agreement, Contractor and County shall submit the matter as follows:

- 2.3.1 Contractor and County shall first submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- 2.3.2 If the Project Managers are unable to resolve the dispute within a reasonable time, not to exceed five (5) Business Days from the date of submission of the dispute, then the matter immediately shall be submitted to the parties' respective Project Directors for further consideration and discussion to attempt to resolve the dispute.

- 2.3.3 If the Project Directors are unable to resolve the dispute within a reasonable time not to exceed five (5) Business Days from the date of submission of the dispute, then the matter shall be immediately submitted to Contractor's Senior Vice President of Corporate Development, or such other person as Contractor's Senior Vice President of Corporate Development shall designate to have the authority to act in such person's stead, and DPH's Chief Information Officer, or such other person as DPH's Chief Information Officer shall designate to act in such person's stead.
- 2.3.4 If Contractor's Senior Vice President of Corporate Development and DPH's Chief Information Officer are unable to resolve the dispute within a reasonable time not to exceed five (5) Business Days from the date of submission of the dispute, then the matter shall be immediately submitted to Contractor's President or Chief Executive Officer, or such other person as Contractor's President or Chief Executive Officer shall designate to have the authority to act in their stead, and the Director, or such other person as the Director shall designate to act in such person's stead. These persons shall have five (5) Business Days to attempt to resolve the dispute.
- 2.3.5 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under the Agreement and its rights and remedies as provided by law.

2.4 DOCUMENTATION OF DISPUTE RESOLUTION

All disputes utilizing the Dispute Resolution Procedures shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all levels of the Dispute Resolution Procedures, the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of correspondence.

2.5 NOT APPLICABLE TO RIGHTS TO TERMINATE

Notwithstanding any other provision of the Agreement, none of (a) County's right to terminate the Agreement pursuant to Paragraphs 4.0 (Termination for Insolvency), 5.0 (Termination for Default), 6.0 (Termination for Convenience) or 7.0 (Termination for Improper Consideration), in each case, of this Exhibit, or any other termination provision under the Agreement, and (b) Contractor's right to terminate under Paragraph 5.0 (Termination for Default) of this Exhibit, shall be subject to the Dispute Resolution Procedures. The

preceding sentence is intended only as a clarification of the Parties' respective rights and shall not be deemed to impair any claims that either Party may have against the other, or the rights of either Party to assert such claims after any such termination or such injunctive relief has been obtained.

3.0 CONFIDENTIALITY AND SECURITY

- 3.1 Subject in all respects to Paragraph 15.3 (Marking Proprietary and Confidential), each Party shall maintain the confidentiality of the other Party's Confidential Information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including HIPAA (as defined below), HITECH (as defined below), California Civil Code Section 1798.82 and County policies concerning information technology security and the protection of confidential records and information. With respect to Contractor, "Confidential Information" consists of the proprietary aspects of the System Software, Documentation and other materials contemplated under, and as marked in accordance with, Paragraph 15.3 (Marking Proprietary and Confidential). With respect to County, "Confidential Information" consists of all County Materials and any other billing, financial, health or other sensitive records, information or data. With respect to both Parties, "Confidential Information" does not include information (a) previously known by the receiving Party prior to the disclosure thereof, (b) hereafter becomes, other than through fault of the receiving Party, generally available to the public, (c) disclosed to the receiving Party by a third party other than in breach of an obligation of confidentiality owed by such third party to the disclosing Party, or (d) independently developed by the receiving Party without using any of the disclosing Party's Confidential Information; provided however that such exceptions shall not apply to the extent applicable law imposes more restrictive limitations than set forth in this Agreement, including HIPAA and/or HITECH.
- 3.2 Contractor shall take all reasonable actions necessary or advisable to protect County's Confidential Information in its possession, custody and/or control from loss or damage by any cause, including fire, theft or other catastrophe.
- 3.3 Subject in all respects to Paragraph 15.3 (Marking Proprietary and Confidential), each Party shall, with respect to any of the other Party's Confidential Information: (a) not use any such Confidential Information for any purpose whatsoever other than carrying out the express terms of the Agreement; (b) promptly transmit to such other Party all requests for disclosure of any such Confidential Information which, in the case of a disclosure that is specifically permitted hereunder, shall in any event occur prior to making such disclosure; (c) not disclose, except as otherwise specifically permitted by the Agreement, any such Confidential Information to any person or organization other than such other Party without such other

Party's prior written authorization; and (d) at the expiration or termination of the Agreement, return all such Confidential Information as instructed under Paragraph 8.0 (Effect of Termination) of this Exhibit.

- 3.4 Contractor shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Paragraph 3.0, as determined by County in its sole judgment.
- 3.5 Contractor shall inform all of its officers, employees, agents and subcontractors performing Work hereunder of the confidentiality provisions of the Agreement. Notwithstanding the foregoing, Contractor acknowledges and agrees that it is responsible for any breach of the obligations of confidentiality set forth herein by any person or entity to which Contractor discloses the Confidential Information or provides access to such Confidential Information by virtue of performing Work on behalf of Contractor under the Agreement.
- 3.6 Contractor shall cause each employee and non-employee performing Work hereunder to sign and adhere to the provisions of Exhibit J (Acknowledgment, Confidentiality and Assignment Agreement) to the Agreement or to comparable agreements at least as protective of County as Exhibit J, with such changes as are approved in writing in advance by County Project Director.
- 3.7 The Parties acknowledge that a breach by one Party of this Paragraph 3.0 may result in irreparable injury to the other Party that may not be adequately compensated by monetary damages, and that, in addition to such other Party's other rights under the Agreement, at law and in equity, such other Party shall have the right to injunctive relief to enforce the provisions of this Paragraph 3.0.

4.0 TERMINATION FOR INSOLVENCY

- 4.1 County may terminate the Agreement immediately at any time following the occurrence of any of the following:
 - 4.1.1 Contractor has ceased to pay or has admitted in writing its inability to pay its debts for at least ninety (90) days in the ordinary course of business, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the United States Bankruptcy

Code, provided that Contractor shall not be deemed insolvent if it has ceased in the normal course of business to pay debts that are disputed in good faith;

- 4.1.2 The filing of a voluntary or involuntary petition (which involuntary petition is not dismissed within sixty (60) days) regarding Contractor under the United States Bankruptcy Code;
 - 4.1.3 The appointment of a receiver or trustee for Contractor; or
 - 4.1.4 The execution by Contractor of a general assignment for the benefit of creditors other than in the course of arranging financial lines of credit.
- 4.2 The rights and remedies of County provided in this Paragraph 4.0 shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity, or under the Agreement.
- 4.3 Contractor agrees that if Contractor as a debtor-in-possession, or if a trustee in bankruptcy, rejects the Agreement, County may elect to retain its rights under the Agreement, as provided under Section 365(n) of the United States Bankruptcy Code (11 U.S.C. Section 365(n)). Upon written request by County to Contractor or the trustee in bankruptcy, as applicable, Contractor or such trustee shall allow County to exercise all of its rights and benefits under the Agreement. The foregoing shall survive the termination or expiration of the Agreement for any reason whatsoever.

5.0 TERMINATION FOR DEFAULT

5.1 EVENT OF DEFAULT - CONTRACTOR

County may, upon written notice to Contractor, terminate the whole or any part of the Agreement in any one of the following circumstances:

- (a) Contractor fails to materially perform or provide any Work, including System Software, Maintenance Services, Support Services, Hosting Services, and/or Additional Work, within the times specified in the Agreement; or
- (b) Contractor (i) breaches or fails to perform or comply with (A) any of the provisions of this Agreement which either (1) identify a breach thereof as a material breach or (2) specify an express right of termination, or (B) any of the other material provisions of this Agreement, or (ii) otherwise materially breaches this Agreement,

in each case, including the applicable notice and cure periods, if any (if no cure period is specified in the Agreement, Contractor shall have thirty (30)

days following notice from the County Project Director specifying such breach or failure to cure prior to termination under this Paragraph 5.1, or such longer period as the County Project Director may authorize, in writing, but in no event shall the period, as extended by the County Project Director, exceed forty-five (45) days), provided that nothing in this Paragraph 5.1 shall in any way limit or modify any rights of County or obligations of Contractor relating to timely performance by Contractor as otherwise set forth in the Agreement.

5.2 EVENT OF DEFAULT – COUNTY

Contractor may, by written notice to County terminate this Agreement for default due to County's non-payment as provided in this Paragraph 5.2. If Contractor does not receive County's undisputed payment due under a properly prepared invoice within sixty (60) days following County's due date for such payment, then Contractor may escalate County's non-payment starting from Contractor Project Manager and County Project Manager in accordance with the Dispute Resolution Procedure. If, following the Dispute Resolution Procedure, the non-payment dispute is not resolved by the Parties within thirty (30) days, then Contractor shall be entitled upon written notice to County to (a) terminate this Agreement, or (b) suspend Contractor's performance under this Agreement until County cures the non-payment. If Contractor elects to suspend performance under clause (b) of the previous sentence, Contractor may thereafter terminate this Agreement upon written notice to County.

5.3 DEEMED TERMINATION FOR CONVENIENCE

If, after County has given notice of termination under the provisions of Paragraph 5.1, it is determined by County or otherwise that Contractor was not in default under the provisions of Paragraph 5.1, or that the default was excusable or curable under the provisions of Paragraph 5.1, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 6.0 (Termination for Convenience) of this Exhibit, except that no additional notice shall be required to effect such termination.

6.0 TERMINATION FOR CONVENIENCE

6.1 TERMINATION FOR CONVENIENCE

County may, in its sole discretion, terminate this Agreement, in whole or in part from time to time. Termination of Work hereunder shall be effected by County's delivery to Contractor of a written notice of termination specifying the extent to which performance of Work is terminated and the date upon which such termination becomes effective. The date upon which such

termination becomes effective shall be no less than thirty (30) days after notice.

6.2 NO PREJUDICE; SOLE REMEDY

Nothing in this Paragraph 6.0 is deemed to prejudice any right of Contractor to make a claim against the County in accordance with the Agreement, applicable law and County procedures for payment for Work through the effective date of termination. Contractor, however, acknowledges that the rights and remedies set forth in this Paragraph 6.2 shall be the only remedy available to Contractor in the event of a termination or suspension pursuant to this Paragraph 6.0 by County.

7.0 TERMINATION FOR IMPROPER CONSIDERATION

- 7.1 County may, upon notice to Contractor, immediately terminate the right of Contractor to proceed under the Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.
- 7.2 Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to County Auditor-Controller's employee fraud hotline at (800) 544-6861.
- 7.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

8.0 EFFECT OF TERMINATION

8.1 REMEDIES

- 8.1.1 In the event that this Agreement is terminated in whole or in part as provided in Paragraphs 4.0 (Termination for Insolvency), 5.0 (Termination for Default) or 7.0 (Termination for Improper Consideration), in each case, of this Exhibit, then:
 - (a) Contractor shall (i) stop performing Work under the Agreement on the date and to the extent specified in such notice, (ii) promptly transfer and deliver to County copies of all completed Work and Work in progress in media

requested by County, (iii) promptly transfer and deliver all items previously paid for by County, and (iv) complete performance of such part of the Work as shall not have been terminated by such notice; and

- (b) County shall have the right to procure, upon such terms and in such a manner as County may determine appropriate, goods, services, and other Work, similar and competitive to those so terminated, and Contractor shall be liable to County for, and shall promptly pay to County by cash payment, any and all excess costs reasonably incurred by County to procure and furnish such similar goods, services, and other Work.

8.1.2 In the event that this Agreement is terminated as provided in Paragraph 5.2 (Event of Default - County), then Contractor shall be permitted to pursue its remedies at law and equity, including but not limited to, and only to the extent not prohibited by this Agreement, for damages and injunctive relief.

8.1.3 In the event that this Agreement is terminated in whole or in part as provided in Paragraph 6.0 (Termination for Convenience), then Contractor shall be permitted to pursue its remedies as provided in Paragraph 6.2 (No Prejudice; Sole Remedy) of this Exhibit.

8.1.4 In all events of termination for whatever reason, but only to the extent available in accordance with this Agreement:

- (a) Contractor shall promptly return to County any and all of County's Confidential Information that relates to that portion of the Agreement or Work terminated, including all County records, data and other information, including records, data and other information pertaining to County's constituents, in media requested by County. In doing so, Contractor shall remove all copies of such Confidential Information from its media, and otherwise destroy all retained hard copies of such Confidential Information, in each case, in accordance with Paragraph 11.11;
- (b) County shall, subject in all respects to the License, promptly return to Contractor any and all of Contractor's Confidential Information that relates to the portion of the Agreement or Work terminated;
- (c) Contractor shall tender promptly payment to County and shall continue to tender payment for the duration of any

liquidated damages levied pursuant to Paragraph 12.4 (Liquidated Damages) of the Base Agreement to the extent applicable; and

- (d) Contractor and County shall continue the performance of the Agreement to the extent not otherwise terminated.

8.2 TRANSITION SERVICES

Contractor agrees that in the event of any termination of the Agreement for any reason, including expiration, Contractor shall fully cooperate with County in the transition by County to a new contractor toward the end that there be no interruption of the County's day-to-day operations due to the unavailability of the Work during such transition. Contractor agrees that if County terminates the Agreement pursuant to Paragraph 6.0 (Termination for Convenience) or Paragraph 5.3 (Deemed Termination for Convenience) of this Exhibit or if Contractor terminates this Agreement pursuant to Paragraph 5.2 (Event of Default – County), Contractor shall perform transition services, and shall invoice County for such transition services determined in accordance with the rates specified in the Schedule of Pricing and Payments and agreed upon maximum amount, in accordance with a transition plan to be agreed upon, in advance, by the County Project Director and the Contractor Project Director. Contractor further agrees that in the event that County terminates the Agreement for any breach by Contractor, Contractor shall perform transition services at no cost to County. County shall reimburse Contractor for such transition services in the event a court of competent jurisdiction finds that County has not rightly terminated the Agreement as provided for herein for breach by Contractor. In connection with the provision of any transition services pursuant to this Paragraph 8.2, Contractor shall provide to the County Project Director, upon the County Project Director's request, documentation that reasonably details the source and amount of the expenses Contractor purports to have incurred in the provision of such transition services.

8.3 REMEDIES NOT EXCLUSIVE

The rights and remedies of County set forth in this Paragraph 8.0 are not exclusive of any other rights and remedies available to County at law or in equity, or under the Agreement.

9.0 WARRANTY AGAINST CONTINGENT FEES

- 9.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or

selling agencies maintained by Contractor for the purpose of securing business.

- 9.2 For breach of this warranty, County shall have the right to terminate the Agreement and, in its discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

10.0 AUTHORIZATION WARRANTY

- 10.1 Contractor and the person executing the Agreement on behalf of Contractor hereby represent and warrant that the person executing the Agreement for Contractor and each other person identified as an authorized signatory on Attachment A.2 (Contractor's Administration) to this Exhibit, is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of the Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.
- 10.2 County and the person executing the Agreement on behalf of County hereby represent and warrant that the person executing the agreement for County is an authorized agent who has actual authority to bind County to each and every term, condition, and obligation of the Agreement and that all requirements of County have been fulfilled to provide such actual authority.

11.0 GENERAL WARRANTIES AND COVENANTS

In addition to Contractor's warranties elsewhere in the Agreement, Contractor represents, warrants, and further covenants and agrees to the following:

- 11.1 (a) Contractor has the full power and authority to grant the License and all other rights granted by the Agreement to County; (b) no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect; (c) County is entitled to use the System without interruption of use; (d) the Agreement and the System licensed or acquired herein, are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors; (e) there is no litigation, dispute, claim, proceeding or other action pending, or to Contractor's knowledge, threatened against Contractor or in respect of the System, that could have a material adverse effect on Contractor's business or on Contractor's ability to perform and meet in a timely fashion Contractor's obligations under the Agreement; and (f) neither the performance of the Agreement by Contractor, nor the License to, and use by, County and its users of the System in accordance with the Agreement will in any way violate any non-disclosure agreement, nor, to the Contractor's knowledge, constitute any infringement or other violation of any Intellectual Property Rights of any third party.

- 11.2 Contractor shall, in the performance of all Work, strictly comply with all descriptions and representations (including, but not limited to, the Specifications, Deliverable Documentation, performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions, and requirements) as set forth in the Statement of Work and elsewhere in the Agreement. Except as otherwise expressly provided in the Agreement, the System shall be free from Deficiencies, which shall be remedied in accordance with the Service Level Requirements.
- 11.3 All Work shall be performed in a timely and professional manner by qualified personnel.
- 11.4 All Documentation developed or provided under the Agreement shall be uniform in appearance except to the extent and where desirable certain differences in appearance are intended for clarity and ease of reference.
- 11.5 All System components shall interface and be Compatible with each other. All System components, when taken together, shall be capable of delivering all of the functionality as set forth in the Agreement, including the Statement of Work, the System Requirements and the other Specifications.
- 11.6 County has designated Contractor's provision of Maintenance Services, Support Services and Hosting Services with respect to the System as essential Contractor services. Contractor shall maintain a business continuity plan setting forth Contractor's plan to continue provision of essential Contractor services under this Agreement following the occurrence of a Disaster (as defined in Exhibit F (Service Level Requirements)) until normal operations can be resumed. Contractor shall address such issues in the business continuity plan as are reasonable in light of the nature of the essential Contractor services and Contractor's other business operations. Contractor shall maintain and update the business continuity plan as necessary and adhere to its requirements throughout the Term. In the event that Contractor anticipates not being able to perform any of the essential Contractor services during a Disaster, Contractor shall notify County Project Director as soon as possible and shall cooperate with County in County's efforts to maintain continuity of operations. Contractor shall require all subcontractors with respect to the essential Contractor services to comply with this provision.
- 11.7 Contractor shall not intentionally cause any unplanned interruption of the operations of, or accessibility to the System or any component of the System through any Virus, device, method or means including the use of any "virus," "lockup," "time bomb," or "key lock," "worm," device or program, or disabling code (each a "Disabling Device"), which has the potential or capability of compromising the security of the Confidential Information or of causing any unplanned interruption of the accessibility of the System or any component of

the System by County or any user or which could alter, destroy, or inhibit the use of the System Software, any component of the System, or the data contained therein. Contractor has not purposely placed, nor is it aware of, any Disabling Device on any component of the System, nor shall Contractor knowingly permit any subsequently delivered component of the System to contain any Disabling Device.

- 11.8 Contractor shall implement practices and procedures consistent with guidance defined in International Organization for Standardization security standard 27002, section 10.4.1, as in effect from time to time, to prevent Disabling Devices from being incorporated or introduced into any component of the System by Contractor or any third party and to detect Disabling Devices in the event preventive measures fail.
- 11.9 Contractor shall not reproduce, distribute or disclose to any person or entity any information identifying, characterizing or relating to any risk, threat, vulnerability, weakness or problem regarding information security or maintenance in County's computer systems, or to any safeguard, countermeasure or contingency plan, policy or procedure for data security contemplated or implemented by County, other than to the applicable affected vendor(s), law enforcement and/or computer security coordinating organizations, in each case, with County's prior written consent which will not be unreasonably withheld.
- 11.10 Contractor shall maintain comprehensive data security procedures and practices appropriate to the nature of the Confidential Information, which shall include, but not be limited to, reasonable and appropriate technical, organizational, administrative and other security measures, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure. The content and implementation of the data security program and associated technical, organizational, administrative and security measures shall be fully documented in writing by Contractor, and Contractor shall provide comprehensive training on the data security program to all parties granted access to the Confidential Information. The documentation shall address control architecture, encryption and data separation procedures, access control and verification, the presence or absence of audit trails, System testing and monitoring, disaster recovery and back-up, and program responsibility, among other items. Contractor shall provide all Work utilizing security technologies and techniques in accordance with the industry standards, Contractor's best practices and applicable County security policies, procedures and requirements, including those relating to the prevention and detection of fraud or other inappropriate use or access of systems and networks. Without limiting the generality of the foregoing, Contractor shall implement and use network management and maintenance applications and tools and fraud prevention and detection and encryption technologies and prevent the introduction of any Disabling Device

into the System. In no event shall Contractor's actions or inaction result in any situation that is less secure than the security that Contractor then provides for its own systems and data.

- 11.11 To the extent Contractor removes County's Confidential Information from any media under its control, Contractor agrees to permanently destroy or securely erase such Confidential Information in accordance with the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitization (Special Publication 800-88), as amended from time to time. Under no circumstances shall Contractor use, re-use, sell, lease or otherwise transfer media on which the Confidential Information has been stored for any purpose unless such Confidential Information has been securely and permanently erased. To the extent that Contractor is disposing of any hard copies of County's Confidential Information (including following any records retention requirements under this Agreement or applicable law), Contractor agrees to shred such copies and not to put in trash contained when Contractor disposes of such copies. All such copies to be shredded are to be placed in a locked or secure container/bin/box and labeled "shred" until they are destroyed. No such copies are to be recycled.
- 11.12 Under no circumstances shall Contractor make any changes in its technical, organizational, administrative and other security measures that materially weaken any technical, organizational, administrative or other security measure in place to safeguard the Confidential Information or result in Contractor's failure to meet any of the minimum standards set forth in this Agreement.
- 11.13 Without limiting Paragraphs 18.0 (Compliance with Applicable Law) or 50.0 (Contractor's Obligations as a "Business Associate" Under HIPAA and HITECH) of this Exhibit, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, policies, guidelines and directives (in this Paragraph 11.0, "Laws") relating to incidents which compromise, are reasonably believed to have compromised, or may potentially compromise, the security, confidentiality and/or integrity of any confidential information (collectively in this Paragraph 11.0, "Security Incidents"), including without limitation, HIPAA, HITECH and California Civil Code Section 1798.82. Under no circumstances will this paragraph be deemed to confer upon County responsibility for Contractor's compliance with all applicable Laws.
- 11.14 Also without limiting Paragraphs 18.0 (Compliance with Applicable Law) or 50.0 (Contractor's Obligations as a "Business Associate" Under HIPAA and HITECH) of this Exhibit, with respect to each Security Incident, Contractor shall (a) no later than forty-eight (48) hours of the occurrence of any Security Incident, provide County Project Director and DPH's Departmental Information Security Officer with written notification detailing such Security

Incident, (b) investigate (with County's participation if so desired by County) such Security Incident, (c) perform a root cause analysis and prepare a corrective action plan, (d) provide written reports of its findings and proposed actions to County for its review, (e) to the extent such Security Incident is within Contractor's areas of control, remediate such Security Incident or potential Security Incident and prevent its recurrence at Contractor's sole cost and expense, (f) cooperate with County in providing any notices that County deems appropriate to affected data subjects, government agencies, credit bureaus and other entities, and (g) cooperate with County in any litigation and investigation against third parties deemed necessary by County to protect the confidential information. No later than ten (10) Business Days' of County Project Director's or County Project Manager's request therefor, Contractor shall make the staff responsible for compliance with the data security available for a conference call with County staff to discuss each Security Incident and the response to such Security Incident, which response shall include, but not be limited to, the steps taken (a) to prevent the reoccurrence of such a Security Incident and (b) to comply with the provisions of this Paragraph 11.0 with respect to such Security Incident.

11.15 Without limiting any provisions of this Agreement, in connection with each Security Incident attributable to Contractor, Contractor shall bear: (a) the costs incurred by Contractor in complying with its legal obligations relating to such breach, and (b) in addition to any other costs, expenses, or damages for which Contractor may be liable for under this Agreement, the following costs incurred by County in responding to such breach, to the extent applicable: (i) the cost of providing notice to affected individuals; (ii) the cost of providing notice to government agencies, credit bureaus, and other required entities; (iii) the cost of providing affected individuals with credit monitoring or restoration services for a minimum of twelve (12) months or such longer minimum period required by applicable Law, to the extent the incident could lead to a compromise of the data subject's credit or credit standing; (iv) call center support for such affected individuals for a specific period not to exceed thirty (30) days; (v) the cost of any other measures required under applicable Law; and (vi) any other damages for which Contractor would be liable under this Agreement, including, but not limited to costs incurred by issuing banks to restore or correct the data subject's credit or credit standing.

11.16 EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT, CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR USE AND FOR A PARTICULAR PURPOSE.

12.0 INDEMNIFICATION; LIMITATION OF LIABILITY

12.1 INDEMNIFICATION

- 12.1.1 Contractor shall indemnify, defend, and hold harmless County, its Special Districts, and their elected and appointed officers, employees, and agents (the "County Indemnitees") from and against any and all liability (alleged or actual), including damages, losses, fees, costs, and expenses (including defense costs and legal, accounting and other expert witness, consulting, attorney and other professional fees) in any way arising from, connected with, or related to Contractor's, Contractor's agents', employees', officers', directors', or shareholders' acts, errors or omissions.
- 12.1.2 Notwithstanding the foregoing, in no event shall Contractor be responsible for that portion of an Indemnification Claim arising out of (a) the negligence or intentional misconduct of any County Indemnitee or (b) County's material breach of this Agreement that has not been cured by County within the applicable cure period specified in Contractor's written notice of such material breach (or if no cure period is specified in the Agreement, thirty (30) days following Contractor's written notice of such breach).
- 12.1.3 Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 12.0 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its reasonable judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such reasonable costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

12.2 LIMITATION OF LIABILITY

- 12.2.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT.

EXCEPT FOR (A) CONTRACTOR'S INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THIRD PARTY INDEMNIFICATION CLAIMS SET FORTH IN PARAGRAPH 12.1 (INDEMNIFICATION) OF THIS EXHIBIT, (B) CONTRACTOR'S INDEMNIFICATION OBLIGATIONS SET FORTH IN PARAGRAPH 14.0 (INTELLECTUAL PROPERTY INDEMNIFICATION) OF THIS EXHIBIT, (C) BODILY INJURY, DEATH, FRAUD OR WILLFUL, INTENTIONAL OR GROSSLY NEGLIGENT MISCONDUCT, (D) BREACHES OF CONFIDENTIALITY OBLIGATIONS, OR (E) CONTRACTOR'S OBLIGATIONS WITH RESPECT TO LIQUIDATED DAMAGES PURSUANT TO PARAGRAPH 12.4 (LIQUIDATED DAMAGES) OF THE BASE AGREEMENT, NEITHER PARTY SHALL BE LIABLE OR OBLIGATED WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY AMOUNTS IN EXCESS OF TWO MILLION DOLLARS (\$2,000,000) AND TWO (2) TIMES THE MAXIMUM CONTRACT SUM, WHICHEVER AMOUNT IS GREATER.

- 12.2.2 With respect to County, the limitation of liability set forth in Paragraph 12.2.1 above does not apply to County's liability under Paragraph 3.0 (Transfer of Ownership; Limitation of Liability) of the Base Agreement, as County's obligations under such Paragraph 3.0 are limited as described in such Paragraph 3.0.

13.0 INSURANCE AND PERFORMANCE SECURITY

13.1 GENERAL INSURANCE REQUIREMENTS

Without limiting Contractor's indemnification of County Indemnitees, and in the performance of the Agreement and until all of its obligations pursuant to the Agreement have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Paragraph 13.0. These minimum insurance coverage terms, types and limits (in this Paragraph 13.0, "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to the Agreement. County in no way warrants that the Required Insurance is sufficient to protect Contractor for liabilities which may arise from or relate to the Agreement.

13.2 EVIDENCE OF COVERAGE AND NOTICE TO COUNTY

- 13.2.1 Certificate(s) of insurance coverage (in this Paragraph 13.0, "Certificate") satisfactory to County, and a copy of an Additional

Insured endorsement confirming County Indemnitees have been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under the Agreement.

- 13.2.2 Renewal Certificates shall be provided to County not less than ten (10) Business Days prior to Contractor's policy expiration dates. County reserves the right to obtain complete, certified copies of any required Contractor and/or subcontractor insurance policies at any time.
- 13.2.3 Certificates shall identify all Required Insurance coverage types and limits specified herein, reference the Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of Contractor identified as the contracting party in the Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.
- 13.2.4 Neither County's failure to obtain, nor County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.
- 13.2.5 Certificates and copies of any required endorsements shall be sent to:

COPY:

Department of Public Health
Division of Contracts & Grants
313 N. Figueroa
Los Angeles CA 90012
Attention: Patricia Gibson, Acting Director

ORIGINAL:

County Project Director at the address indicated on Attachment A.1 (County's Administration) to Exhibit A (Additional Terms and Conditions).

- 13.2.6 Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a

Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its subcontractors which arises from or relates to the Agreement, and could result in the filing of a claim or lawsuit against Contractor and/or County.

13.3 ADDITIONAL INSURED STATUS AND SCOPE OF COVERAGE

The County Indemnitees shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County Indemnitees additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County Indemnitees as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

13.4 CANCELLATION OF INSURANCE

Except in the case of cancellation for non-payment of premium, Contractor's insurance policies shall provide, and Certificates shall specify, that County shall receive not less than thirty (30) days advance written notice by mail of any cancellation of the Required Insurance. Ten (10) Business Days prior notice may be given to County in event of cancellation for non-payment of premium.

13.5 FAILURE TO MAINTAIN INSURANCE

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Agreement, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate the Agreement. County, at its sole discretion, may obtain damages from Contractor resulting from said breach.

13.6 INSURER FINANCIAL RATINGS

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

13.7 CONTRACTOR'S INSURANCE SHALL BE PRIMARY

Contractor's insurance policies, with respect to any claims related to the Agreement, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

13.8 WAIVERS OF SUBROGATION

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to the Agreement. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

13.9 SUBCONTRACTOR INSURANCE COVERAGE REQUIREMENTS

Contractor shall include all subcontractors as insureds under Contractor's own policies, or shall provide County with each subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each subcontractor complies with the Required Insurance provisions herein, and shall require that each subcontractor name the County and Contractor as additional insureds on the subcontractor's General Liability policy. Contractor shall obtain County's prior review and approval of any subcontractor request for modification of the Required Insurance.

13.10 DEDUCTIBLES AND SELF-INSURED RETENTIONS (SIRS)

Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety authorized to transact business in the State of California.

13.11 CLAIMS MADE COVERAGE

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of the Agreement. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

13.12 APPLICATION OF EXCESS LIABILITY COVERAGE

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

13.13 SEPARATION OF INSURED

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

13.14 ALTERNATIVE RISK FINANCING PROGRAMS

The County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County Indemnites shall be designated as an Additional Covered Party under any approved program.

13.15 COUNTY REVIEW AND APPROVAL OF INSURANCE REQUIREMENTS

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

13.16 INSURANCE COVERAGE

13.16.1 Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County Indemnites as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

13.16.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to the Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

13.16.3 Professional Liability insurance covering Contractor's liability arising from or related to the Agreement, with limits of not less than \$1 million per claim and \$3 million aggregate. Further, Contractor understands and agrees it shall maintain such

coverage for a period of not less than three (3) years following the Agreement's expiration, termination or cancellation

- 13.16.4 Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

13.17 PERFORMANCE SECURITY

County reserves the right to require Contractor to provide performance security in such amount, and in such a form, as is satisfactory to County.

13.18 FAILURE TO PROCURE AND MAINTAIN INSURANCE

Failure on the part of Contractor to procure and maintain the Required Insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the Agreement, upon which County may either (i) terminate the Agreement pursuant to Paragraph 5.0 (Termination for Default) of this Exhibit and seek all remedies pursuant to Paragraph 8.0 (Effect of Termination) of this Exhibit, or (ii) purchase such required insurance coverage and debit Contractor for the cost of such insurance.

14.0 INTELLECTUAL PROPERTY INDEMNIFICATION

- 14.1 Contractor shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from and against any and all liability (alleged or actual), including damages, losses, costs, fees and other expenses (including reasonable defense costs and legal, accounting and other expert, consulting or professional fees), for or by reason of any actual or alleged infringement of any Intellectual Property Rights of any third party, or any actual or alleged trade secret disclosure or misappropriation, arising from or related to the System or the operation and

utilization of the Work under the Agreement (collectively referred to in this Paragraph 14.0 as "Infringement Claims").

- 14.2 Without limiting the foregoing, in the event County Project Director becomes aware that ongoing use of the System, or any part of it, is the subject of any Infringement Claim that might preclude or impair County's use of the System or any component of the System (e.g., injunctive relief), or that County's continued use of the System or any part of it may subject it to punitive damages or statutory penalties or other costs or expenses, County shall give notice to Contractor of such facts. Upon notice of such facts, Contractor shall, at no cost to County, either (a) procure the right, by license or otherwise, for County to continue to use the affected portion of the System, to the same extent as granted by the License, or (b) to the extent Contractor is unable to procure such right, replace or modify the affected portion of the System with product of equivalent quality and performance capabilities to become non-infringing, non-misappropriating and non-disclosing.
- 14.3 If Contractor fails to complete the remedial acts set forth above within sixty (60) days of the date of the notice from County or if completion of such measures is not possible despite Contractor's commercially reasonable best efforts within such sixty (60) day period and County has not approved in writing (such approval not to be unreasonably withheld) Contractor's plan of completing such remediation, then, in either instance, County shall have the right, without limiting any other rights or remedies that County may have under the Agreement or at law or equity, to terminate this Agreement for default in accordance with Paragraph 5.1 (Event of Default – Contractor) of this Exhibit.

15.0 PROPRIETARY CONSIDERATIONS

15.1 COUNTY MATERIALS

Contractor and County agree that all (a) County records, data and other information, including records, data and other information pertaining to County's constituents, and (b) materials, plans, reports, project schedules, project plans, Project Charter, documentation and training materials developed by or solely for County, departmental procedures and processes, and any other information provided by County or specifically provided by Contractor for County pursuant to this Agreement (excluding the System Software and related Documentation), and all Intellectual Property Rights therein (the items referenced in (a) and (b) collectively "County Materials") shall be the sole property of County. Contractor hereby assigns and transfers to County all of Contractor's right, title, and interest in and to all such County Materials, provided that notwithstanding such County ownership, Contractor may retain possession of all working papers prepared by Contractor. During and for a minimum of five (5) years subsequent to the

Term, Contractor shall retain any and all such working papers. County shall have the right to inspect any and all such working papers, make copies thereof, and use the working papers and the information contained therein.

15.2 TRANSFER TO COUNTY

Upon request of County, Contractor shall execute all documents requested by County and shall perform all other reasonable acts requested by County to assign and transfer to, and vest in, County all Contractor's right, title and interest in and to the County Materials, including, but not limited to, all Intellectual Property Rights. County shall have the right to register in the name of the County of Los Angeles, all copyrights and patents in the County Materials. All material expense of effecting such assignment and transfer of rights shall be borne by County. Further, County shall have the right to assign, license or otherwise transfer any and all County's right, title and interest, including, but not limited to, Intellectual Property Rights, in and to the County Materials.

15.3 MARKING PROPRIETARY AND CONFIDENTIAL

Any and all materials which are developed or were originally acquired by Contractor outside the scope of this Agreement, which Contractor desires to use hereunder, and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to County Project Director as proprietary or confidential, and shall be plainly and prominently marked by Contractor as "PROPRIETARY" or "CONFIDENTIAL", if applicable. Notwithstanding any other provision of this Agreement, County shall not be obligated in any way under this Agreement for:

- (a) Any disclosure of any materials which County is required to make under the California Public Records Act or otherwise by law; and
- (b) Any Contractor's proprietary and/or confidential materials not plainly and prominently marked with restrictive legends.

In the event County is required to defend an action on a California Public Records Act request for any of the aforementioned documents marked "trade secret", "confidential", or "proprietary", Contractor agrees to provide a defense through counsel of its choice, and to indemnify County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the California Public Records Act.

As between County and Contractor, the System Software and any derivatives or modifications shall be adequately marked when the Restricted Rights Legend below is affixed to the System Software or to its storage media and is perceptible directly or with the aid of a machine or device. Contractor agrees

to provide, and County agrees not to alter, the following legend on the System Software media with Contractor's name and address added below the notice:

RESTRICTED RIGHTS LEGEND

Use, duplication or disclosure is subject to Atlas standard commercial license terms and for non-DOD Departments and Agencies of the U.S. Government, the restrictions as set forth in FAR 52.227-19(c)(1-2)(Jun 1987).

Atlas Database Software Co.

26679 West Agoura Road, Suite 200

Calabasas, CA 91302 U.S.A.

Copyright (c) 20__ Atlas Database Software Co. All Rights Reserved

The System Software is delivered and licensed as "commercial computer software" as defined in DFARS 252.227-7014 (Jun 1995) or as a "commercial item" as defined in FAR 2.101(a), or as "restricted computer software" as defined in FAR 52.227-19 (Jun 1987) (or any equivalent agency regulation or contract clause), whenever and whichever is applicable.

16.0 FORCE MAJEURE

Except with respect to defaults of any subcontractors and subject to Contractor's performance of its obligations under Paragraph 11.6, Contractor shall not be liable for any such excess costs, if its failure to perform the Agreement arises out of events beyond its reasonable control including fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by Contractor or any of Contractor's subcontractors), freight embargoes, or other similar acts to those described above, but in every such case the failure to perform must be beyond Contractor's reasonable control and without any fault or negligence of Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the reasonable control of both Contractor and subcontractor, and without any fault or negligence of either of them, Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. Contractor agrees to use commercially reasonable efforts to obtain such goods or services from other sources, and to mitigate the damages and reduce the delay caused by any of the above mentioned force majeure events. As

used in this Paragraph 16.0, the term “subcontractor” and “subcontractors” mean subcontractors at any tier.

17.0 CONTRACTOR RESPONSIBILITY AND DEBARMENT

17.1 COUNTY DEBARMENT

- 17.1.1 A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County’s policy to conduct business only with responsible contractors.
- 17.1.2 Contractor is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in the Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which will not exceed five (5) years, but may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing contracts Contractor may have with County.
- 17.1.3 County may debar a Contractor if the Board finds, in its discretion, that Contractor has done any of the following: (a) violated a term of a contract, including the Agreement, with County or a nonprofit corporation created by County, (b) committed an act or omission which negatively reflects on Contractor’s quality, fitness or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (c) committed an act or offense which indicated a lack of business integrity or business honesty, or (d) made or submitted a false claim against County or any other public entity.
- 17.1.4 If there is evidence that Contractor may be subject to debarment, DPH will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- 17.1.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or Contractor's representative shall be given an

opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor and DPH shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.

- 17.1.6 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board. The Board shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 17.1.7 If a Contractor has been debarred for a period longer than five (5) years, that Contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of County.
- 17.1.8 The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
- 17.1.9 The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall

present its proposed decision and recommendation to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

17.1.10 These terms shall also apply to subcontractors of County contractors.

17.1.11 A listing of Contractors that are currently on the Debarment List for Los Angeles County may be found at the following website: http://lacounty.info/doing_business/DebarmentList.htm.

17.2 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76)

Contractor acknowledges that County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible or excluded or whose principals are suspended, debarred, ineligible or excluded from securing federally funded contracts. By executing this Agreement, contractor certifies that neither it nor any of its owners, officers, partners, directors or principals is currently suspended, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Contractor certifies that, to its knowledge, none of the its subcontractors, at any tier, or any owner, officer, partner, director or other principal of any subcontractor is currently suspended, debarred, ineligible or excluded from securing federally funded contracts. Contractor shall immediately notify County in writing, during the term of this Agreement, should it or any of its subcontractors or any principals of either be suspended, debarred, ineligible or excluded from securing federally funded contracts. Failure of Contractor to comply with this provision shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend the Agreement.

18.0 COMPLIANCE WITH APPLICABLE LAW

18.1 In the performance of the Agreement, Contractor and County shall each comply with all applicable Federal, State and local laws, rules, regulations, ordinances, policies, legally binding guidelines and directives, and all provisions required thereby to be included in the Agreement are hereby incorporated herein by reference. Contractor shall have up to fifteen (15) days (or such other time period as mutually agreed upon by County Project Director and Contractor Project Director) to correct any noncompliance with any County rules, regulations, policies, legally binding guidelines and directives following written notice from County including written copies (or

directions for obtaining written copies) of such rules, regulations, policies, legally binding guidelines and/or directives.

- 18.2 Contractor shall indemnify, defend, and hold harmless County Indemnitees County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment.

19.0 FAIR LABOR STANDARDS

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County Indemnitees County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from any and all liability (actual or alleged), including damages, losses, wages, overtime pay, liquidated damages, penalties, court costs, fees and other expenses (including attorneys' fees) arising under any wage and hour law, including the Federal Fair Labor Standards Act for Work performed by Contractor's employees.

20.0 NONDISCRIMINATION, AFFIRMATIVE ACTION AND ASSURANCES

Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally as required by applicable laws and regulations without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

- 20.1 Contractor shall certify to, and comply with, the provisions of Contractor's EEO certification, attached as Exhibit I (Contractor's EEO Certification) to the Agreement.
- 20.2 Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable Federal and State anti discrimination laws and regulations. Such action shall include: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 20.3 Contractor certifies and agrees that it will deal with its bidders, or vendors as required by applicable laws and regulations without regard to or because of

race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap.

- 20.4 Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.
- 20.5 Contractor shall allow County representatives access to Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 20.0 when so requested by County; provided that County's access to such employment records of Contractor shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any such employee. Should Contractor consider the records proprietary or confidential, Contractor shall mark such records accordingly in accordance with Paragraph 15.3 (Marking Proprietary and Confidential), in which case such statements shall be considered Contractor's Confidential Information.
- 20.6 If County finds that any of the provisions of this Paragraph 20.0 have been violated, such violation shall, at the election of County, constitute a material breach of the Agreement upon which County may immediately terminate the Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of the Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations such determination shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of the Agreement.
- 20.7 The parties agree that if Contractor violates the anti-discrimination provisions of the Agreement, County shall, at its option, be entitled to the sum of five hundred dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating the Agreement.

21.0 EMPLOYMENT ELIGIBILITY VERIFICATION

- 21.1 Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing Work under the Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and

regulations. Contractor shall obtain, from all employees performing Work hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for the period prescribed by law.

- 21.2 Contractor shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 12.0 (Indemnification) of this Exhibit, from and against any and all liability (alleged or actual), including damages, losses, fees, costs, and expenses (including defense costs and legal, accounting and other expert witness, consulting or professional fees) arising out of or in connection with any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing Work hereunder.

22.0 HIRING OF EMPLOYEES

- 22.1 Contractor and County (with respect to its Department of Public Health only) agree that, during the Term and for a period of one (1) year thereafter, except with the prior written consent of the other Party, neither Party shall in any way intentionally induce or solicit any Project Director, Project Manager or other employee, of one Party to become an employee or agent of the other Party. No bar exists against any hiring action initiated through a public announcement.
- 22.2 Notwithstanding the foregoing, County shall be entitled to make offers of employment to employees of Contractor necessary or desirable to perform Work described in the Agreement, in the event that: (a) County has the right to terminate the Agreement pursuant to Paragraph 4.0 (Termination for Insolvency) of this Exhibit; (b) the Agreement is terminated by County due to Contractor's default pursuant to Paragraph 5.0 (Termination for Default) of this Exhibit; or (c) Contractor either announces the withdrawal of support of, or otherwise no longer provides services County deems essential to, the ongoing support of the Work as applicable.

23.0 CONFLICT OF INTEREST

- 23.1 No County employee whose position with County enables such employee to influence the award of the Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in the Agreement. No officer or employee of Contractor, who may financially benefit from the performance of Work hereunder, shall in any way participate in County's approval, or ongoing evaluation, of such Work, or in any way

attempt to unlawfully influence County's approval or ongoing evaluation of such Work.

- 23.2 Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the Term. Contractor warrants that it is not now aware of any facts that do or could create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Paragraph shall be a material breach of the Agreement.

24.0 RE-SOLICITATION OF BIDS, PROPOSALS OR INFORMATION

- 24.1 Contractor acknowledges that, prior to the expiration or earlier termination of the Agreement, County, in its discretion, may exercise its right to invite bids, request information, or request proposals for the continued provision of the goods and services delivered or contemplated under the Agreement. County shall make the determination to re-solicit bids, request information, or request proposals in accordance with applicable County policies.
- 24.2 Contractor acknowledges that County, in its discretion, may enter into a contract for the future provision of goods and services, based upon the bids, information, or proposals received, with a provider or providers other than Contractor. Further, Contractor acknowledges that it obtains no greater right to be selected through any future invitation for bids, request for information, or request for proposals by virtue of its present status as Contractor.

25.0 RESTRICTIONS ON LOBBYING

Contractor, and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010 retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with County Lobbyist Ordinance shall constitute a material breach of the Agreement upon which County may immediately terminate or suspend the Agreement.

26.0 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should Contractor require additional or replacement personnel after the effective date of the Agreement to perform the services set forth herein, Contractor shall give reasonable consideration for any such employment openings to participants in County's Department of Public Social Services' greater avenues for independence (in this Paragraph 26.0, "GAIN") or general relief opportunity for work (in this

Paragraph 26.0, "GROW") programs who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, the County employees shall be given the first opportunity.

27.0 STAFF PERFORMANCE WHILE UNDER THE INFLUENCE

Subject to all applicable laws and regulations, Contractor shall use reasonable efforts to ensure that no employee will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance, which might reasonably, or have been observed to, impair such person's physical or mental performance.

28.0 CONTRACTOR PERFORMANCE DURING CIVIL UNREST

Contractor recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Exhibit or the Agreement, full performance by Contractor during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically reasonably possible without related danger to Contractor's employees or suppliers. During any such event in which the health or safety of any of Contractor's staff members would be endangered by performing their services on-site, such staff members may perform any or all of their services remotely. Failure to comply with this requirement shall be considered a material breach of the Agreement by Contractor, for which County may immediately terminate the Agreement.

29.0 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

29.1 Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

29.2 As required by the County's Child Support Compliance Program (Los Angeles County Code Chapter 2.200) and without limiting the Contractor's duty under the Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during Term maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall

implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

- 29.3 Failure of Contractor to maintain compliance with the requirements set forth in this Paragraph 29.0, shall constitute default under the Agreement. Without limiting the rights and remedies available to County under any other provision of the Agreement, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate the Agreement pursuant to Paragraph 5.0 (Termination for Default) of this Exhibit and pursue debarment of the Contractor, pursuant to Los Angeles County Code Chapter 2.202.

30.0 RECYCLED-CONTENT PAPER

Consistent with the Board's policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content paper to the maximum extent possible in Contractor's provision of Work pursuant to the Agreement.

31.0 COMPLIANCE WITH JURY SERVICE PROGRAM

31.1 JURY SERVICE PROGRAM

The Agreement is subject to the provisions of County's ordinance entitled Contractor Employee Jury Service (in this Paragraph 31.0, "Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit M (Jury Service Ordinance) to the Agreement and incorporated by reference into and made a part of the Agreement.

31.2 WRITTEN EMPLOYEE JURY SERVICE POLICY

- 31.2.1 Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the Los Angeles County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the Los Angeles County Code), Contractor shall have and adhere to a written policy that provides that its employees shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the employees' regular pay the fees received for jury service.

- 31.2.2 For purposes of this Paragraph 31.0, "Contractor" means a person, partnership, corporation or other entity which has a contract with County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: (a) the lesser number is a recognized industry standard as determined by County, or (b) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under the Agreement, the subcontractor shall also be subject to the provisions of this Paragraph 31.0. The provisions of this Paragraph 31.0 shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
- 31.2.3 If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during the Term and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" or that Contractor continues to qualify for an exception to the Jury Service Program.
- 31.2.4 Contractor's violation of this Paragraph 31.0 may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

32.0 BACKGROUND AND SECURITY INVESTIGATIONS

- 32.1 All Contractor staff performing Work under the Agreement, including subcontractors, shall undergo and pass, to the satisfaction of County, a

background investigation as a condition of beginning and continuing Work under the Agreement. County shall use its discretion in determining the method of background investigation to be used, up to and including a County-performed fingerprint security clearance. Alternatively, Contractor may conduct its own background check, provided that the method of background investigation shall have been approved in advance and in writing by County Project Director and County shall be specified as the reporting agency. All fees associated with background checks shall be borne by Contractor.

- 32.2 If any of Contractor's staff, including subcontractors, do not pass the background clearance investigation, County may require that the individual immediately be removed from performing Work at any time during the Term.
- 32.3 County may immediately deny or terminate facility access to Contractor's staff, including subcontractors, who do not pass such investigation(s) to the satisfaction of County, or whose background or conduct is incompatible with County facility access, at the sole discretion of County.
- 32.4 Disqualification, if any, of Contractor staff, including subcontractors, pursuant to this Paragraph 32.0 shall not relieve Contractor of its obligations to complete all Work in accordance with the terms and conditions of the Agreement.

33.0 ACCESS TO COUNTY FACILITIES

Contractor, its employees, subcontractors and agents will be granted access to County facilities, subject to Contractor's prior notification to the County Project Director, for the purpose of executing Contractor's obligations hereunder. Contractor shall have no tenancy, or any other property or other rights in County facilities. While present at County facilities, Contractor, its employees, subcontractors and agents shall be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by the County Project Director.

34.0 COUNTY FACILITY OFFICE SPACE

In order for Contractor to perform services hereunder and only for the performance of such services, County may elect, subject to County's standard administrative and security requirements, to provide Contractor with office space and equipment, as determined at the discretion of the County Project Director, at County facilities, on a non-exclusive use basis. County shall also provide Contractor with reasonable telephone service and network connections in such office space for use only for purposes of the Agreement. County disclaims any and all responsibility for the loss, theft or damage of any property or material left at such County office space by Contractor.

35.0 DAMAGE TO COUNTY FACILITIES, BUILDINGS, OR GROUNDS

- 35.1 Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings or grounds to the extent caused by Contractor or employees or agents of Contractor. Such repairs shall be made promptly after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.
- 35.2 If Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by Contractor by cash payment upon demand, or without limitation of all County's other rights and remedies provided at law or equity, or under the Agreement, County may deduct such costs from any amounts due to Contractor from County under the Agreement.

36.0 PHYSICAL ALTERATIONS

Contractor shall not in any way physically alter or improve any County facility without the prior written approval of the County Project Director and County's Director of Internal Services, in their discretion.

37.0 FEDERAL EARNED INCOME TAX CREDIT

If required by applicable law, Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

38.0 ASSIGNMENT BY CONTRACTOR

- 38.1 Contractor shall not assign its rights or delegate its duties under the Agreement, or both, whether in whole or in part, without the prior written consent of County, which consent shall not be unreasonably withheld, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Paragraph 38.0, County consent shall require a written Amendment to the Agreement, which is formally approved and executed by the Parties in accordance with Paragraph 8.0 (Change Orders and Amendments) of the Base Agreement. Any payments by County to any approved delegate or assignee on any claim under the Agreement shall be deductible, at County's sole discretion, against the claims which Contractor may have against County. Notwithstanding the foregoing, County's consent shall not be required if the assignee is a Related Company to Contractor, provided that Contractor shall give County written notification of such assignment at least ten (10) Business Days prior to consummation of such assignment. For purposes of this Paragraph 38.0, a "Related Company"

means (a) a subsidiary of Contractor organized under the laws of the United States with respect to which Contractor owns at least a majority controlling interest therein or (b) a Related Company of Contractor organized under the laws of the United States with respect to which the same person(s), corporation(s), partnership(s), or legal entity(ies) that own at least a majority controlling interest of Contractor own at least a majority controlling interest of such Related Company.

- 38.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person, corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, then to the extent legally permissible such disposition shall require the prior written consent of County, which may be given by the Director, including, if determined by the Director, in the same manner as described in Paragraph 38.1 above. If prior written consent is not legally permissible, then Contractor shall give County written notice of such disposition promptly, but in no event later than ten (10) Business Days from finalization of such disposition.
- 38.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

39.0 INDEPENDENT CONTRACTOR STATUS

- 39.1 The Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever. Contractor shall function as, and in all respects is, an independent Contractor.
- 39.2 County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

- 39.3 Contractor understands and agrees that all persons performing Work pursuant to the Agreement are, for purposes of workers' compensation liability, the sole employees of Contractor and not employees of County. County shall have no obligation to furnish, or liability for, workers' compensation benefits to any person as a result of any injuries arising from or connected with any Work performed by or on behalf of Contractor pursuant to the Agreement.

40.0 RECORDS AND AUDITS

- 40.1 Contractor shall maintain accurate and complete financial records of its activities and operations relating to the Agreement, including any termination hereof, in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of the Agreement. Contractor agrees that County, or its authorized representatives, shall, with reasonable notice, during regular business hours and without unreasonable disruption of Contractor's ordinary business operations, have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records of Contractor relating to the Agreement. All such material, including all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, shall be kept and maintained by Contractor and shall be made available to County during the Term and for a period of five (5) years thereafter, unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then at Contractor's option, Contractor shall either (i) provide County with access to such material at a mutually agreed upon location inside Los Angeles County, or (ii) pay County for travel, per diem, and other costs and expenses incurred by County to examine, audit, excerpt, copy or transcribe such material at such outside location. Should Contractor consider the materials proprietary or confidential, Contractor shall mark such materials accordingly in accordance with Paragraph 15.3 (Marking Proprietary and Confidential), in which case such statements shall be considered Contractor's Confidential Information.
- 40.2 If an audit is conducted of Contractor specifically regarding the Agreement by any Federal or State auditor, or by an auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with County's Auditor Controller and the County Project Director within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable federal or state law or under the Agreement.
- 40.3 If, at any time during or after the Term, representatives of County conduct an audit of Contractor, as and to the extent permitted hereunder, regarding the

Work performed under the Agreement, the results of such audit, including any final determination in respect of an underpayment or overpayment, if any by County under the Agreement, shall be provided in writing to Contractor. Contractor shall have thirty (30) days to review the findings contained in such audit and notify County of any objection to the same. Such notice must include, in reasonable detail, the basis for Contractor's objection and any supporting documentation and analysis for Contractor's objection. If the parties cannot agree, within fifteen (15) days of receipt of Contractor's objection to the findings contained in County's audit, on the amount of underpayment or overpayment, if any, by County to Contractor hereunder, then either party may submit such matter to the Dispute Resolution Procedures, provided such matter shall be submitted initially, directly to the County Project Director and the Contractor Project Director. If Contractor fails to notify County of any objection it has to the findings of County's audit within the thirty (30) day period set forth above, Contractor shall presumptively but not conclusively be considered to have waived, including any determination of overpayment by County. If such audit finds that County's dollar liability for any such Work is less than payments made by County to Contractor, then the difference, together with County's reasonable costs of audit, shall be either repaid by Contractor to County by cash payment upon demand or, at the discretion of the County Project Director, deducted from any amounts due to Contractor from County. If such audit finds that County's dollar liability for such Work is more than the payments made by County to Contractor, then the difference shall be paid to Contractor by County, but in no event shall County's payments to Contractor exceed the Maximum Contract Sum.

- 40.4 Contractor's financial records shall be audited by an independent auditor for every year that this Agreement is in effect, unless such requirement is waived in writing by County. An initial audit shall be conducted following the end of County's current fiscal year and at scheduled intervals thereafter as agreed by the parties hereto, but not less frequently than every two (2) years. The audit shall satisfy the requirement of the Office of Budget and Management Circular Number A-133. Such audit shall be performed by an independent auditor in accordance with recognized auditing standards (e.g., United States General Accounting Office Publication, Standards for Audit of Government Organizations, Programs, Activities, and Functions), and any other applicable Federal, State or County statutes, policies or guidelines. Contractor shall file such audit report(s) with the County's Department of Public Health Contract Monitoring at the address indicated in Attachment A.1 (County's Administration) within the earlier of thirty (30) calendar days of Contractor receipt of the report(s) or nine months after the end of the audit period. This independent auditor's workpapers shall be retained at least three (3) years following the completion of the audit, unless the auditor is notified in writing by County to extend the retention period. Audit workpapers shall be made

available for review by Federal, State or County representatives upon request.

- 40.5 Failure on the part of Contractor to comply with any of the provisions of this Paragraph 40.0 shall constitute a material breach upon which County may terminate or suspend the Agreement.

41.0 FEDERAL ACCESS TO RECORDS

If, and to the extent that, Section 1861(v)(1)(i) of the Social Security Act (42 United States Code Section 1295x(v)(1)(i)) is applicable, Contractor agrees that for a period of four (4) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve-month period with a related organization (as term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor.

42.0 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATION, AND CERTIFICATES

Contractor shall obtain and maintain in effect during the Term all licenses, permits, registrations, accreditation, and certificates required by all Federal, State, and local laws, rules, regulations, ordinances, policies, guidelines and directives, which are applicable to the Work under the Agreement. Contractor shall further ensure that all of its officers, employees and agents who perform Work hereunder, shall obtain and maintain in effect during the Term all licenses, permits, registrations, accreditation, and certificates which are applicable to their performance hereunder and/or required by applicable Federal, state and local laws, rules, regulations, ordinances, policies, guidelines and directives. If and to the extent requested by County, Contractor shall provide copy of each such license, permit, registration, accreditation, and certificate to:

ORIGINAL:

Department of Public Health
Division of Contracts & Grants
313 N. Figueroa
Los Angeles CA 90012
Attention: Patricia Gibson, Acting Director

COPY:

County Project Manager at the address indicated on Attachment A.1 (County's Administration) to Exhibit A (Additional Terms and Conditions).

43.0 NO THIRD PARTY BENEFICIARIES

Notwithstanding any other provision of the Agreement, Contractor and County do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of the Agreement, except that this Paragraph 43.0 shall not be construed to diminish Contractor's indemnification obligations hereunder.

44.0 TIME IS OF THE ESSENCE

Time is of the essence under this Agreement.

45.0 MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor, at any time during the Term, provide the same goods or substantially similar services under similar quantity, delivery, and other applicable terms and conditions to the State of California or any county, municipality, public agency, or district within California at prices below those set forth in the Agreement, then such lower prices shall be extended immediately to County.

46.0 COUNTY'S QUALITY ASSURANCE PLAN

County or its agent will evaluate Contractor's performance under the Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with the terms and performance standards of the Agreement. Contractor deficiencies which County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board. The report will include improvement and corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate the Agreement or impose other penalties as specified in the Agreement.

47.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/ ON RE-EMPLOYMENT LIST

Should Contractor require additional or replacement personnel after the effective date of the Agreement to perform the Work hereunder, Contractor shall give consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the Term.

48.0 CONTRACTOR TO NOTIFY COUNTY WHEN IT HAS REACHED 75% OF MAXIMUM CONTRACT SUM

Contractor shall maintain a system of record keeping that will allow Contractor to determine when it has incurred seventy-five percent (75%) of the Maximum Contract Sum. Upon occurrence of this event, Contractor shall send written notification to the County Project Director and the County Project Manager.

49.0 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION OR TERMINATION OF CONTRACT

Subject to Paragraph 8.2 (Transition Services) of this Exhibit, Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any Work performed or provided by Contractor under the Agreement after the expiration or other termination of the Agreement. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for Work performed or provided after expiration or termination of the Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of the Agreement.

50.0 CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH)

County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Agreement, Contractor provides services to County and Contractor receives, has access to, and/or creates Protected Health Information as defined in Exhibit G (Contractor's Obligations As a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)) in order to provide those services. County and Contractor therefore agree to the terms of Exhibit G.

51.0 SAFELY SURRENDERED BABY LAW

51.1 NOTICE TO EMPLOYEES

Contractor shall notify and provide to its employees, and shall require each subcontractor performing Work under the Agreement to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit L (Safely Surrendered Baby Law) to the Agreement and is also available on the Internet at www.babysafela.org for printing purposes.

51.2 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at Contractor's place of business. Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

52.0 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM

- 52.1 If required by applicable law, the Agreement is subject to the provisions of County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.
- 52.2 Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.
- 52.3 Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.
- 52.4 If Contractor has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded the Agreement to which it would not otherwise have been entitled, shall:
 - (a) Pay to County any difference between the contract amount and what the County's costs would have been if the Agreement had been properly awarded;
 - (b) In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the Agreement; and
 - (c) Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and County's Office of Affirmative Action Compliance of this information prior to responding to a solicitation or accepting a contract award.

53.0 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

- 53.1 If required by applicable law, the Agreement is subject to the provisions of the County's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.
- 53.2 Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.
- 53.3 Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.
- 53.4 If Contractor has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:
 - (a) Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
 - (b) In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract; and
 - (c) Be subjected to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a contract award.

54.0 NOTICE OF DELAY

- 54.1 In the event Contractor determines at any time that failure, delay, or inadequacy of performance of any of County's obligations hereunder may prevent or tend to prevent Contractor from achieving System Acceptance for the Upgraded System in a timely manner, or may cause or tend to cause Contractor to incur additional or unanticipated costs or expenses, Contractor shall promptly following such determination (and without limiting Contractor's obligation of prompt notification, in any event within five (5) days following such determination), notify County Project Director in writing, which notice shall specify in reasonable detail: (a) any alleged failure, delay or inadequacy of performance by County and (b) to the best knowledge of Contractor after due inquiry and analysis, the estimated impact of such alleged failure, delay or inadequacy on the performance of Contractor's obligations, including any estimated delay and any estimated amount of additional or unanticipated costs or expenses that may be incurred (a "Notice of Delay").
- 54.2 Such Notice of Delay, if timely filed, shall be treated as a request by Contractor for an extension of any deadline impacted by the delay and an Amendment to the Agreement, as applicable pursuant to Paragraph 8.3 (Amendments) of the Base Agreement, which shall be granted under the circumstances described in Paragraph 7.5.1 of the Base Agreement. In the event Contractor fails to notify County in writing of any alleged failure, delay, or inadequacy of performance of any of County's obligations in a timely manner as set forth in this Paragraph 54.0, Contractor shall not be entitled to rely upon such alleged failure, delay, or inadequacy of performance for any purpose whatsoever, including as a purported justification for either: (i) claiming that Contractor is entitled to receive any additional payments from County hereunder or (ii) failing to fulfill any of Contractor's obligations in a timely manner.
- 54.3 This Paragraph 54.0 shall not be interpreted or construed as expanding in any manner the financial obligations of County under the Agreement.

55.0 COUNTY'S DEFAULTED PROPERTY TAX PROGRAM

- 55.1 Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their California property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.
- 55.2 Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this Agreement will maintain compliance, with Los Angeles County Code Chapter 2.206.

55.3 Failure of Contractor to maintain compliance with the requirements set forth in this Paragraph 55.0 shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within ten (10) days of notice shall be grounds upon which County may terminate this Agreement and/or pursue debarment of Contractor, pursuant to Los Angeles County Code Chapter 2.206.

56.0 CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM

56.1 Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor shall notify Director within thirty (30) days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more staff members barring it or the staff members from participation in a Federally funded health program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

56.2 Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health program. Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

57.0 WAIVER

No waiver by County of any breach of any provision of the Agreement shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of the Agreement shall not be construed as a waiver thereof.

58.0 GOVERNING LAW, JURISDICTION, AND VENUE

The Agreement shall be governed by, and construed in accordance with, the substantive and procedural laws of the State of California applicable to contracts made and to be performed within that state. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California (except with respect to claims that are subject to exclusive Federal subject matter jurisdiction, as to which Contractor agrees and consents to the exclusive jurisdiction of the United States District Court of the Central District of California) for all purposes regarding the Agreement and further agrees and consents that venue of any action brought

hereunder shall be exclusively in the Central District of the Superior Court for the County of Los Angeles, California.

59.0 SEVERABILITY

If any provision of the Agreement is adjudged void or invalid, for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective. In the event that one or more of the provisions of the Agreement is found to be invalid, illegal or unenforceable in any respect, such provision shall be deleted here from and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the Agreement fails of its essential purpose because of such deletion.

60.0 RIGHTS AND REMEDIES NOT EXCLUSIVE

The rights and remedies of County provided in any given Paragraph, as well as throughout the Agreement, including throughout this Exhibit, are not exclusive and are cumulative with any and all other rights and remedies under the Agreement, at law, or in equity.

61.0 FACSIMILE

Except for the parties initial signatures to the Agreement, which must be provided in "original" form, and not by facsimile, County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officials of each party, when appearing in appropriate places on Change Orders, Amendments or in other correspondence, notices, etc. requiring signatures, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed thereto, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

* * *

ATTACHMENT A.1
COUNTY'S ADMINISTRATION

CONTRACT NO. _____

COUNTY PROJECT DIRECTOR OR SUCH PERSON'S DESIGNEE:

Jim Green, Chief Information Officer
Los Angeles County Department of Public Health
Public Health Information Systems
5555 Ferguson Dr., Suite 100-04
Los Angeles, CA 90022
Phone: (323) 869-8179
Fax: (323) 890-8544
E-mail: jimgreen@ph.lacounty.gov

COUNTY PROJECT MANAGER:

Irene Culver
Los Angeles County Department of Public Health
Acute Communicable Disease Control Program
313 N. Figueroa St., Room 212
Los Angeles, CA 90012
Phone: (213) 250-8680
Fax: (213) 482-4856
E-mail: iculver@ph.lacounty.gov

DPH CHIEF INFORMATION OFFICER:

Jim Green, Chief Information Officer
Los Angeles County Department of Public Health
Public Health Information Systems
5555 Ferguson Dr., Suite 100-04
Los Angeles, CA 90022
Phone: (323) 869-8179
Fax: (323) 890-8544
E-mail: jimgreen@ph.lacounty.gov

COUNTY'S GRANT ADMINISTRATOR:

Yushan K. Tong
Los Angeles County
Department of Public Health
Acute Communicable Disease Control Program
313 N. Figueroa St., Suite 212

Los Angeles, CA 90012
Fax: (213) 580-0194
Email: ytong@ph.lacounty.gov

CONTRACT MONITORING:

Los Angeles County
Department of Public Health
5555 Ferguson Drive, Suite 320-24C, Room 3033
Commerce, CA 90022
Attention: Audit and Investigation Division

ADDRESS FOR NOTICES:

Patricia Gibson, Acting Director
Los Angeles County Department of Public Health
Division of Contracts & Grants
313 N. Figueroa
Los Angeles, CA 90012
Phone: (213) 240-8179
Fax: (213) 240-8343
E-mail: pgibson@ph.lacounty.gov

With a copy to:

County Project Director and County Project Manager as indicated above.

ATTACHMENT A.2
CONTRACTOR'S ADMINISTRATION

CONTRACT NO. _____

CONTRACTOR PROJECT DIRECTOR:

Lori Markey, Director, Public Health Client Services
Atlas Development Corporation
26679 West Agoura Road, Suite 200
Calabasas, CA 91302
Voice: (818) 224-6225
Cell: (818) 402-8308
Fax: (818) 383-4790
E-mail: lmарkey@atlasdev.com

CONTRACTOR PROJECT MANAGER:

Zoreh Shahbazi, Project Manager
Atlas Development Corporation
26679 West Agoura Road, Suite 200
Calabasas, CA 91302
Voice: (818) 466-7119
Cell: (818) 621-1209
Fax: (818) 337-0323
E-mail: zshahbazi@atlasdev.com

CONTRACTOR'S AUTHORIZED SIGNATORIES:

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Robert Atlas	President and CEO	
Stephen Atlas	Vice President	

ADDRESS FOR NOTICES:

Atlas Development Corporation
Attention: Yadira Castillo
26679 West Agoura Road, Suite 200
Calabasas, CA 91302
Fax: 818.340.7079
E-mail: ycastillo@atlasdev.com

EXHIBIT B

STATEMENT OF WORK

I. INTRODUCTION

This Exhibit B (Statement of Work) (together with all Attachments hereto, "Statement of Work") provides in greater detail the scope of work to be performed by Atlas Database Software Corp. d/b/a Atlas Development Corporation ("Contractor") under County Agreement No. _____ dated _____, 2011 (together with all Exhibits and Attachments, the "Agreement"), by and between the County of Los Angeles, for its Department of Public Health ("County"), and Contractor. Capitalized terms used in this Statement of Work without definition have the meanings given to such terms in the Base Agreement.

II. INSTRUCTION

Contractor shall provide Deliverables to County as follows:

- A. All status reports and other Deliverable documents in both a hard copy format and a copy delivered electronically.
- B. Access to the System Software electronically over the Internet as part of the Hosting Services described in Task 15 (Provide Hosting Services).
- C. All Documentation available for download through a secure website or electronically in a file format reasonably acceptable to County. County agrees that PDF and Microsoft Office file formats including Microsoft Word and Microsoft Project formats are acceptable file formats.
- D. All Project Charter updates using reasonable County Project Management standards and training materials in a hard copy format if requested by County or electronically in a file format reasonably acceptable to County. County agrees that PDF and Microsoft Office file formats including Microsoft Word and Microsoft Project formats are acceptable file formats.

III. TASKS AND DELIVERABLES

TASK 1 - PROJECT PLANNING

Contractor shall provide project management and administration for the Work and the Upgraded System to be provided by Contractor under the Agreement as provided in this Task 1 (Project Planning) below. Unless otherwise specified herein

or agreed to by the Parties, Contractor shall utilize its standard practices and procedures in the performance of all project management and administration tasks.

Contractor will not be responsible for the performance of County personnel. However, Contractor shall coordinate with County Project Director to ensure that all Tasks, Subtasks, Deliverables, goods, services, and other Work are performed in a timely manner.

Subtask 1.1 – Develop and Present Project Charter

Contractor shall develop a Project Charter for the Upgraded System (the "Project Charter"), which shall be mutually approved by the Parties. Specifically, Contractor shall address each Task and Subtask to be performed during the Upgraded System development and implementation. The Project Charter shall address at least the following areas in substance, as applicable to the Upgraded System:

- A. Project Goals and Objectives
- B. Project Scope
- C. Project Deliverables – Listing all Deliverables and identifying milestones among those Deliverables.
- D. Anticipated Project Phases
- E. Key Project Assumptions
- F. Potential Project Risks and Mitigation
- G. Organization: Contractor and County Staffing Roles and Responsibilities
- H. Communication Plan – Addressing status reports and conferences, steering committee reports and conferences, change requests, reporting of testing incidents and technical issues, and escalation procedures.
- I. Change Management / Control Plan
- J. Implementation Work Plan – Providing a detailed project schedule for each Task and Subtask, indicating Contractor and County staffing roles and responsibilities. Additionally including a plan for testing the Upgraded System in order to confirm that the Upgraded System performs in accordance with the System Requirements and other Specifications, which (1) describes the approach to those tests to be conducted by Contractor and to those tests to be conducted by County, (2) identifies the tests, including scope and depth of such tests, (3) identifies the testing methodologies, and (4) includes a method for documenting and reporting compliance with the System Requirements and other Specifications (the "Upgraded System Test Plan").

If County has any proposed changes to the Project Charter, County shall advise Contractor of such proposed changes at least five (5) Business Days prior to the next scheduled status conference at which such proposed changes will be discussed. Alternatively, County may request that Contractor be available to meet prior to

scheduled status conferences to discuss any County proposed changes to the Project Charter, such meeting to be held no later than five (5) Business Days prior to the next scheduled status conference. Contractor shall memorialize all proposed changes to the Project Charter, and shall submit such changes, whether initiated by County or Contractor, to County, in writing, as soon as reasonably practicable prior to the scheduled status conference at which the proposed changes are to be reviewed and approved. As soon as reasonably practicable following each status conference, Contractor shall update the Project Charter to reflect any changes resulting from such status conference that should reasonably be documented in the Project Charter.

Deliverable 1.1 – Project Charter

Contractor shall provide County with an initial draft Project Charter within two (2) months of the Effective Date. Contractor shall update and maintain the Project Charter through System Acceptance for the Upgraded System and at the intervals specified in Subtask 1.1 (Develop and Present Project Charter).

TASK 2 - PROJECT MANAGEMENT

Subtask 2.1 – Prepare Status Reports and Conduct Conferences

Contractor shall provide a mutually acceptable method of reporting ongoing project activities to County. All reports shall be prepared on at least a monthly basis through System Acceptance for the Upgraded System and shall include, at a minimum, the following information:

- A. Period covered by the report;
- B. Task(s) scheduled for completion which were completed;
- C. Task(s) scheduled for completion which were not completed, and explanation;
- D. Task(s) not scheduled for completion which were completed;
- E. Task(s) scheduled for completion next reporting period;
- F. Issue(s) resolved;
- G. Issue(s) to be resolved with recommended solution(s);
- H. Such other information as reasonably requested by County Project Director or Project Manager.

Contractor shall conduct status conferences with County Project Director and/or County Project Manager on at least a monthly basis through System Acceptance for the Upgraded System, the purposes of which are to review the status reports and any related matters, and to review and approve any proposed changes to the Project Charter. All variances shall be presented for approval at the status conferences.

Deliverable 2.1 – Status Reports and Conduct Conferences

Contractor shall prepare the status reports and conduct the status conferences as described in Subtask 2.1 (Prepare Status Reports and Conduct Conferences).

Subtask 2.2 Prepare Steering Committee Reports and Conduct Steering Committee Conferences

The project will have a steering committee, which will consist of County and Contractor executive level staff, Project Directors and Project Managers. Contractor shall provide a mutually acceptable method of reporting ongoing project activities and any executive level project issues to the project's steering committee. All reports shall be prepared on at least a quarterly basis through System Acceptance for the Upgraded System and shall include such information as mutually agreed on by the Parties.

Contractor shall conduct conferences with the project's steering committee on at least a quarterly basis through System Acceptance for the Upgraded System, the purpose of which is to review the steering committee reports and any other executive level project issues. With respect to any steering committee conference, either County or Contractor may request attendance of such other individuals as County or Contractor, as the case may be, feel necessary to address an item for review at such conference.

Deliverable 2.2 – Steering Committee Reports and Conduct Steering Committee Conferences

Contractor shall prepare the steering committee reports and conduct the steering committee conferences as described in Subtask 2.2 (Prepare Steering Committee Reports and Conduct Steering Committee Conferences).

TASK 3 – ANALYZE EXISTING COUNTY ENVIRONMENT

Subtask 3.1 - Analyze Existing County Environment

Contractor shall conduct an analysis of all existing County hardware, network and operating software and make recommendations to County as to whether hardware, software and/or network improvements are necessary in order to meet the minimum requirements for the County Environment. Such recommendations shall be limited to those that are (a) required to ensure Compatibility with the Upgraded System and (b) consistent with mainstream personal computer hardware and software (i) in the case of hardware, widely available from a variety of manufacturers no sooner than two (2) years prior to the date of recommendation and capable of running the then-current version of Microsoft Windows, and (ii) in the case of software, widely available from a variety of manufacturers no sooner than one (1) year prior to the date of recommendation, in each case, unless otherwise approved in writing by County Project Manager, such approval not to be unreasonably withheld. For the sake of clarity, County shall bear the cost of purchasing any such improvements.

Deliverable 3.1 – Analyzed Existing County Environment

Contractor shall deliver the analysis and recommendations described in Subtask 3.1 (Analyze Existing County Environment) by the date set forth in the Project Charter. Upon System Acceptance for the Upgraded System, the minimum system

requirements for the County Environment included in such analysis and purchased by County shall be deemed to update Exhibit E (Minimum System Requirements) for all purposes under the Agreement.

TASK 4 – SYSTEM ENVIRONMENTS

Subtask 4.1 – Disaster Recovery for the System

The interim Disaster Recovery Service Level Agreement for the System as the System exists prior to implementation of the Upgraded System is attached as Attachment F.3 (Disaster Recovery Service Level Agreement) of the Service Level Requirements). Notwithstanding the foregoing, Contractor shall develop a revised Disaster Recovery Service Level Agreement which shall include Contractor service levels in the event of a Disaster, as well as Contractor's obligations to ensure readiness for a Disaster, including maintaining redundant and failover capabilities, performing System monitoring, and performing Disaster recovery readiness testing (the "Updated Disaster Recovery Service Level Agreement").

Deliverable 4.1 – Disaster Recovery for the System

Contractor shall provide the Updated Disaster Recovery Service Level Agreement within three (3) months of the Effective Date. Upon County's approval of the Updated Disaster Recovery Service Level Agreement in accordance with the Agreement, the Updated Disaster Recovery Service Level Agreement shall be deemed to replace the Disaster Recovery Service Level Agreement attached as Attachment F.3 of the Service Level Requirements for all purposes under the Agreement.

Subtask 4.2 – Prepare System Environments

Contractor shall prepare the System Environments as is necessary for County to access the Upgraded System, together with all other System components, and for the Upgraded System, together with all other System components, to perform in accordance with the System Requirements and other Specifications.

Deliverable 4.2 – Prepared System Environments

Contractor shall deliver a written certification that the System Environments have been prepared as described in Subtask 4.2 (Prepare System Environments) by the date set forth in the Project Charter.

Subtask 4.3 – Disaster Recovery for the Upgraded System

Contractor shall review the Updated Disaster Recovery Service Level Agreement for the System and make any revisions thereto as necessary for the Upgraded System (see Attachment F.3 (Disaster Recovery Service Level Agreement) of the Service Level Requirements).

Deliverable 4.3 – Disaster Recovery for the Upgraded System

Contractor shall deliver the Updated Disaster Recovery Service Level Agreement for the Upgraded System by the date set forth in the Project Charter. Upon County's approval of the Updated Disaster Recovery Service Level Agreement in accordance with the Agreement, the Updated Disaster Recovery Service Level Agreement shall be the Disaster Recovery Service Level Agreement referenced as Attachment F.3

(Disaster Recovery Service Level Agreement) of the Service Level Requirements for all purposes under the Agreement.

TASK 5 – DEVELOP UPGRADED SYSTEM

Subtask 5.1 – Prepare GAP Analysis (Version 8.3.4 vs Version 10.0)

Contractor shall prepare an analysis that identifies (a) all functionality of Version 8.3.4 of the vCMR Software components of the System Software, including that which is currently identified in Exhibit D (Description of System Software) and the Attachments thereto, (b) all functionality of Version 10.0 the vCMR Software components of the System Software, and (c) all gaps between the functionality of these two versions. Contractor shall additionally review such analysis with designated County staff and shall identify, with assistance of such County staff, all Baseline Modifications and Baseline Interfaces required to address the gaps in functionality. All required Baseline Modifications and Baseline Interfaces shall be incorporated into the analysis.

Deliverable 5.1 – GAP Analysis (Version 8.3.4 vs Version 10.0)

Contractor shall deliver the analysis described in Subtask 5.1 (Prepare GAP Analysis (Versions 8.3.4 vs. Version 10.0)) by the date set forth in the Project Charter. Upon County's approval of the analysis in accordance with the Agreement, the analysis shall be deemed to update Exhibit D (Description of System Software) and the applicable Attachments thereto for all purposes under the Agreement.

Subtask 5.2 – Develop Upgraded System to Address GAP Analysis

Develop the Upgraded System, including all Baseline Modifications and Baseline Interfaces, in accordance with the analysis delivered under Subtask 5.1 (Prepare GAP Analysis (Versions 8.3.4 vs. Version 10.0)). In doing so, all Baseline Modifications shall be incorporated into Version 10.0 and made a part of the Version 10.0 Baseline Application to be made available as Updates to all Version 10.0 customers.

Deliverable 5.2 –Developed Upgraded System to Address GAP Analysis

Contractor shall deliver the Upgraded System, including all Baseline Modifications and Baseline Interfaces, as described in Subtask 5.2 (Develop Upgraded System to Address GAP Analysis), by the date set forth in the Project Charter.

TASK 6 – INSTALL UPGRADED SYSTEM ON TEST ENVIRONMENT

Subtask 6.1 – Install Upgraded System on Test Environment

Contractor shall install the Upgraded System on the test System Environment.

Deliverable 6.1 – Installed Upgraded System on Test Environment

Contractor shall deliver a written certification that the Upgraded System is installed and accessible to County in the test System Environment by the date set forth in the Project Charter.

TASK 7 – DATA CONVERSION AND MIGRATION

Subtask 7.1 – Develop Data Conversion and Migration Plan

Contractor shall develop a data conversion and migration strategy and contingency plan ("Data Conversion and Migration Plan") that addresses the programs and processes for conducting data conversion and migration and the methods for validating success of conversion and migration. The Data Conversion and Migration Plan shall include a back-out method to allow the County to revert to the prior software version, with all data intact, in the event that the data conversion and migration are unsuccessful.

Deliverable 7.1 – Data Conversion and Migration Plan

Contractor shall deliver the Data Conversion and Migration Plan as described in Subtask 7.1 (Develop Data Conversion and Migration Plan) by the date set forth in the Project Charter.

Subtask 7.2 – Conduct Data Conversion and Migration Test

Prior to User Acceptance Testing (see Task 9), Contractor shall test conversion and migration of the existing data using the conversion and migration programs and processes developed under Subtask 7.1 (Develop Data Conversion and Migration Plan). Contractor shall, with the assistance and cooperation from County as needed, test and verify the validity of the test conversion and migration in accordance with the Data Conversion and Migration Plan and shall certify in writing as to the success of the same prior to delivering the test conversion and migration for County testing and verification. County will, with the assistance and cooperation from Contractor as needed, thereafter test and verify the validity of the test conversion and migration and approve or disapprove of the conformance of the test conversion and migration to Data Conversion and Migration Plan. If County disapproves of the test conversion and migration, Contractor shall, with assistance and cooperation from County as needed, determine the root cause of the failure and revise the Data Conversion and Migration Plan as necessary to permit successful completion of the test conversion and migration.

Deliverable 7.2 – Conduct Conversion and Migration Test

Contractor shall provide written certification as to the successful test conversion and migration and shall provide assistance and cooperation to County as needed with County's test and verification of the test conversion and Migration as required by Subtask 7.2 (Conduct Data Conversion and Migration Test), in each case, by the date set forth in the Project Charter.

Subtask 7.3 – Perform Data Conversion

Following User Acceptance Testing (see Task 9) but prior to System Cutover to Production Use (see Subtask 11.1), Contractor shall perform data conversion and migration in accordance with Data Conversion and Migration Plan.

Deliverable 7.3 – Data Conversion

Contractor shall perform data conversion and migration and certify in writing that Contractor has successfully performed all data conversion and migration in accordance with the Data Conversion and Migration Plan, in each case, by the date set forth in the Project Charter.

TASK 8 – UPGRADED SYSTEM TESTS

Subtask 8.1 – Conduct Tests of the Upgraded System

Following completion of successful delivery and installation of System Software by Contractor, Contractor, with the assistance and cooperation from County as needed, shall perform all tests of the Upgraded System identified in, and in accordance with, the Upgraded System Test Plan as tests to be performed by Contractor, and shall certify in writing as to the successful completion of all such tests.

Deliverable 8.1 – Certification of Testing of Upgraded System

Contractor shall provide written certification as to the successful completion of all tests of the Upgraded System described in Subtask 8.1 (Conduct Tests of the Upgraded System) by the date set forth in the Project Charter.

TASK 9 – USER ACCEPTANCE TESTS

Subtask 9.1 – Develop User Acceptance Test Plan

With reference to the Upgraded System Test Plan, County will prepare a plan for conducting User Acceptance Tests for the Upgraded System (the "User Acceptance Test Plan"), which will include descriptions of the purpose and expected results of each User Acceptance Test and corresponding test scripts. The User Acceptance Test Plan will include a method for documenting and reporting compliance with System Requirements and other Specifications. Contractor shall assist and cooperate with County as needed during the preparation of the User Acceptance Test Plan and shall review and comment on such Plan to assist County with its objective to develop a thorough User Acceptance Test Plan that will provide assurance that the System performs in accordance with the System Requirements and other Specifications.

Deliverable 9.1 – User Acceptance Test Plan

Contractor shall provide assistance and cooperation to County as needed during the preparation of the User Acceptance Test Plan and shall review and comment on such Plan as described in Subtask 9.1 (Develop User Acceptance Test Plan), in each case, by the date set forth in the Project Charter.

Subtask 9.2 – Conduct User Acceptance Tests

County will, with assistance and cooperation from Contractor as needed, perform User Acceptance Tests in accordance with the User Acceptance Test Plan. There shall be several cycles of the tests performed (testing shall be repeated as necessary) before User Acceptance Tests are complete. When User Acceptance Tests are successfully completed, the System shall be ready for implementation.

Results of the User Acceptance Test shall be documented, reviewed, and approved in writing by County. In the event of missing or improperly operating functions, Contractor shall be notified, in writing, by County Project Director, or designee and Contractor shall work diligently to correct the Deficiencies following notification thereof. During this testing period, all personnel designated by County Project Director to participate in User Acceptance Tests shall have all necessary systems access permission levels for the purpose of evaluating its functionality.

User Acceptance Test shall not be considered complete until all functionality of the System has been successfully tested and County Project Director has confirmed that success in writing. In the event the User Acceptance Test results do not satisfy all requirements, as reasonably determined by County:

- (1) Contractor shall implement the proposed solution until such time as County provides written approval.
- (2) County shall then perform the User Acceptance Tests again.

Deliverable 9.2 – Conduct User Acceptance Tests

Contractor shall provide the assistance, cooperation and other Work described in Subtask 9.2 (Conduct User Acceptance Tests) by the date set forth in the Project Charter.

TASK 10 – SYSTEM TRAINING AND DOCUMENTATION

Subtask 10.1 - Train County Staff

Contractor shall prepare and implement training, including any necessary training manuals and materials. Contractor shall develop training courses addressing technical training for the end-user and train-the-trainers for the County's technical staff for the Upgraded System, and shall train County staff to deliver such courses. Train-the-trainer approach is to be provided in multiple sessions.

As part of the training, Contractor shall provide the designated County groups with extensive working knowledge of the Upgraded System capabilities. This includes training in the administration of the System Software as well as problem resolution training to ensure Users will become acquainted with error messages, on-line support, and corrective actions. Training manuals and materials will be created and incorporated into the on-line reference and users guide currently in the vCMR Software.

Deliverable 10.1 - Train County Staff

Contractor shall develop the training courses, materials and manuals, and train County staff trainers to deliver such training courses, all as described under Subtask 10.1 (Train County Staff), and all by the date set forth in the Project Charter. All training manuals and materials shall be delivered electronically to the County no later than three Business Days prior to the training schedule in order to be printed.

Subtask 10.2 - Prepare User Documentation

Contractor shall prepare user reference Documentation for all System Software provided by Contractor for the Upgraded System using the "On-line User Guide and Reference Manual" currently in the vCMR Software.

Deliverable 10.2 - Provide User Documentation

Contractor shall update the "On-line User Guide and Reference Manual" currently in the vCMR Software by the date set forth in the Project Charter.

TASK 11 – SYSTEM IMPLEMENTATION

Subtask 11.1 – Perform System Cutover to Production Use and Installation

Contractor shall prepare the Upgraded System for Production Use. As part of System Cutover to Production Use, Contractor shall, at a minimum:

- A. Confirm that County and Contractor, as the case may be, have successfully completed all Upgraded System tests and User Acceptance Tests;
- B. Transfer the successfully tested System Software to the Production Environment;

Completion of this Subtask shall constitute Cutover to Production, and the System shall be in Production Use.

Deliverable 11.1 - System Cutover to Production Use

Contractor shall complete the System Cutover to Production Use as described in Subtask 11.1 (Perform System Cutover to Production Use and Installation) by the date set forth in the Project Charter.

TASK 12 –SYSTEM ACCEPTANCE

Subtask 12.1 – System Acceptance

Contractor shall achieve "System Acceptance" for the Upgraded System when: (a) all Upgraded System functions and features have been provided, installed and operate in the Production Environment without any Acceptance Deficiencies for one (1) Acceptance Period, following the date on which the County has approved of Deliverable 11.1 (System Cutover to Production Use) in accordance with the Agreement; (b) Contractor has provided an Interim Solution (as defined in the Service Level Requirements) with respect to all Deficiencies of Severity Level Medium occurring during the Acceptance Period in accordance with the timeframes set forth in the Service Level Requirements; and (c) Contractor has provided written certification that Contractor has successfully completed all of the foregoing requirements for achieving System Acceptance of the Upgraded System.

Paragraph 7.4 (System Acceptance) of the Base Agreement sets forth the provisions with respect to the occurrence of an Acceptance Deficiency and the restart of the Acceptance Period in connection therewith.

Notwithstanding anything in this Exhibit or the Agreement to the contrary, (a) Deficiencies having a Severity Level Medium shall not be considered to interrupt the Acceptance Period (although, as described above, Contractor must provide an Interim Solution with respect to all such Deficiencies occurring during the Acceptance Period in accordance with the timeframes set forth in the Service Level Requirements as a condition to System Acceptance of the Upgraded System), and (b) Deficiencies having a Severity Level Low shall not impact upon or postpone

System Acceptance. Deficiencies of Severity Level Low shall be corrected as Service Requests in accordance with the Service Level Requirements.

Deliverable 12.1 – System Acceptance Certificate

Contractor shall provide written certification that Contractor has successfully completed all requirements for System Acceptance of the Upgraded System as set forth in Subtask 12.1 (System Acceptance) by the date required by the Agreement.

TASK 13 – PROVIDE MAINTENANCE SERVICES

Subtask 13.1 – Provide Maintenance Services

During the Term of this Agreement, Contractor shall provide Maintenance Services in accordance with the Service Level Requirements.

Deliverable 13.1 – Provide Maintenance Services

During the Term of this Agreement, Contractor shall provide Maintenance Services in accordance with the Service Level Requirements.

TASK 14 – PROVIDE SUPPORT SERVICES

Subtask 14.1 – Provide Support Services

During the Term of this Agreement, Contractor shall provide Support Services in accordance with the Service Level Requirements.

Deliverable 14.1 – Provide Support Services

During the Term of this Agreement, Contractor shall provide Support Services in accordance with the Service Level Requirements.

TASK 15 – PROVIDE HOSTING SERVICES

Subtask 16.1 – Provide Hosting Services

During the Term of this Agreement, Contractor shall provide Hosting Services in accordance with the Service Level Requirements.

Deliverable 15.1 – Provide Hosting Services

During the Term of this Agreement, Contractor shall provide Hosting Services in accordance with the Service Level Requirements.

TASK 16 – PROVIDE AS-NEEDED ADDITIONAL WORK

Subtask 16.1 – Provide As-Needed Additional Work

Providing Contractor and County have reached an agreement with respect to Contractor's performance of Additional Work, within thirty (30) days (or such other mutually agreed upon date) of receipt of County Project Director's written request for Additional Work under Paragraph 7.1.5 (Additional Work) of the body of the Agreement, Contractor shall, with the assistance and cooperation of County as needed, provide a written description of the Additional Work and a price quotation therefor, which shall be on a fixed price basis, unless the Parties mutually determine that a "not-to-exceed" time and materials basis is appropriate.

Thereafter, the Parties shall mutually and cooperatively draft a Change Notice or Amendment, as the case may be, which includes the applicable documentation specified in Task 16, or as requested by County Project Director. Execution of the Change Order or Amendment, as the case may be, shall be in accordance with Paragraph 8.0 (Change Orders and Amendments) of the body of the Agreement, and approval of the Work to be performed thereunder shall be in accordance with Paragraph 7.2 (Approval of Work) of the body of the Agreement. Contractor's price quotations under each proposed Change Order and Amendment for Additional Work shall be valid for sixty (60) days from the date of submission to County, unless such period is extended by County and Contractor.

Each Change Order or Amendment shall include the applicable of the following:

1. A description of the Additional Work to be performed under the Change Order or Amendment (Task and Deliverable-based, if applicable), and a statement, signed by Contractor Project Director, which explains and certifies that the Additional Work is outside the scope of Work then-required of Contractor under this Agreement;
2. Contractor staff and estimated personnel hours recommended for completion of such Additional Work;
3. Fixed price quotation or, if the Parties mutually determine appropriate, a "not-to-exceed" time and materials price quotation, which in either case is based on applicable pricing included in the Schedule of Pricing and Payments. The price quotation shall include future cost, if any, for Maintenance Services, Support Services and/or Hosting Services for such items (the assumption being no additional fees are required unless expressly identified). Unless otherwise agreed to in the applicable Change Order or Amendment, the payment schedule for Additional Work priced on a fixed price basis shall be as follows:
 - (a) Twenty-five percent (25%) of the fixed price payable upon County's approval in accordance with this Agreement of the System Requirements and other Specifications;
 - (b) Fifty percent (50%) of the fixed price payable after Contractor's delivery of a version of the software and/or system to be developed pursuant to the Additional Work deemed ready by Contractor for all associated testing;
 - (c) Twenty-five percent (25%) of the fixed price payable after County's approval in accordance with this Agreement of successful completion of all associated testing of the software and/or system developed pursuant to the Additional Work and the software and/or system is migrated to the Production Environment, unless County delays migration to the Production Environment for greater than sixty (60) days from the date on which Contractor notifies County in writing of the successful completion of all associated testing of the software and/or system developed pursuant to the Additional Work and the software and/or system is ready to be migrated to the Production Environment, in which case such payment shall then become payable by County. County shall thereafter be entitled to reverse the payment (including through credit to other payments owed to Contractor under this Agreement) if once County is ready to migrate such Additional Work to the Production Environment, such Additional Work is not able to successfully complete County testing.

4. For Additional Modifications, Additional Interfaces and/or Additional Products, provide for the development and delivery of the applicable of the following:

- (a) Any additional System Requirements and other Specifications;
- (b) An analysis of any impact on existing System Software components and future Updates and Version Releases;
- (c) Test plan(s) using an approach similar to that which is outlined for the Upgraded System Test Plan (see Subtask 1. 1 (Develop and Present Project Charter)); and
- (d) An analysis of any required or recommended County Environment additions or upgrades, which required or recommended County Environment additions or upgrades shall be limited as described in the Service Level Requirements.

Any modifications to the terms and conditions of the Agreement or its Exhibits/Attachments require an Amendment.

5. A completion schedule and a final delivery date for the Additional Work, including any post-delivery acceptance period as may be applicable;

6. If applicable, a revised Task and Deliverable completion schedule under the Statement of Work for the remaining Work (other than the Work requested under the Change Order or Amendment).

Upon execution of a Change Order or Amendment for Additional Work under Paragraph 8 (Change Orders and Amendments) of the body of the Agreement, Contractor shall provide such Additional Work in accordance with this Task 16, the applicable Change Order or Amendment, and otherwise with the Agreement.

Deliverable 16 Provide As- Needed Additional Work

Contractor shall complete and deliver all Additional Work required under each executed Change Order and Amendment, in accordance with Task 16, the applicable Change Order or Amendment, and otherwise with the Agreement. Upon completion and delivery by Contractor, and acceptance by County, of any Additional Modifications, Additional Interfaces and/or Additional Products, such Additional Modifications, Additional Interfaces or Additional Products, as the case may be, shall become part of and be included in the System Software for all purposes under the Agreement.

EXHIBIT C

SCHEDULE OF PRICING AND PAYMENTS

SUMMARY – MAXIMUM CONTRACT SUM FOR INITIAL TERM

Item No.	Description	Amount
1.	Exhibit B (Statement of Work) Tasks and Deliverables 1-12 ¹	\$0
2.	Aggregate Maintenance Fees (Exhibit B (Statement of Work) Task and Deliverable 13) ^{2 3 4}	\$280,000
3.	Aggregate Support Fees (Exhibit B (Statement of Work) Task and Deliverable 14) ³	\$595,000
4.	Aggregate Hosting Fees (Exhibit B (Statement of Work) Task and Deliverable 15) ³	\$1,484,000
5.	Aggregate Pool Dollars for Additional Work Under Exhibit B (Statement of Work) Task and Deliverable 16	\$1,399,685
6.	Aggregate Credit	(\$816,676)
7.	Prior Change Orders	\$187,694.50
	Maximum Contract Sum for Initial Term	<u>\$3,129,703.50</u>

¹ Amount of \$0 indicates a fixed price quotation of \$495,000 less an immediate credit of \$495,000.

² The aggregate Maintenance Fees are a negotiated reduced rate.

³ Subject to increase for the sixth and seventh year of the Initial Term under Paragraph 10.8 (Cost of Living Adjustments) of the Agreement.

⁴ Subject to increase, as applicable, for increased Users or increased Labs as indicated on Attachment C.1 (Maintenance Fees Detail).

ATTACHMENT C.1

MAINTENANCE FEES DETAIL

EXHIBIT B (STATEMENT OF WORK) TASK AND DELIVERABLE 13

	Initial Term Year 1	Initial Term Year 2	Initial Term Year 3	Initial Term Year 4	Initial Term Year 5	Initial Term Year 6 ⁵	Initial Term Year 7 ⁵	Option Term Year 8 ⁶	Option Term Year 9 ^{5 6}	Option Term Year 10 ^{5 6}
Negotiated Quarterly Maintenance Fee Payment ⁷	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$102,850.75	\$105,936.27	\$109,114.36
Negotiated Aggregate Annual Maintenance Fees ⁷	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$411,403	\$423,745.09	\$436,457.44

⁵ Subject to increase for the sixth and seventh year of the Initial Term and ninth and tenth year of Option Term under Paragraph 10.8 (Cost of Living Adjustments) of the Agreement.

⁶ Requires an Amendment under Paragraph 8.0 (Change Orders and Amendments) of the Agreement. Additionally, pricing indicated is an estimate based upon the number of Users and Labs as of the Effective Date, calculated as shown in this Attachment C.1. In connection with County's exercise of each Option Term, County shall be entitled to adjust the Maintenance Fees based upon County's actual number of Users and Labs as of the date of exercise. In the event of an adjustment, the Maintenance Fees for the Option Term shall be calculated using the pricing set forth in the General Services Administration Authorized Federal Supply Service Information Technology Schedule Pricelist attached as Attachment C. 7 (the "GSA Schedule"), for each applicable component of the System Software listed on Exhibit D (Description of System Software). Such adjustment shall be set forth on the Amendment entered into with respect to such Option Term and shall be as agreed to in such Amendment fixed for such Option Term.

If, at the time of exercise of the next Option Term following an Option Term with respect to which County adjusted its Maintenance Fees downward, County must adjust its Maintenance Fees upward to reflect an increased number of Users and Labs, the Maintenance Fees shall be adjusted upward by the amount indicated on the GSA Schedule for the increased number of Users or Labs for such next Option Term, and shall additionally be adjusted upward retroactively for the number of quarters during the prior Option Term that the Users or Labs exceeded the number of Users or Labs used to calculate the Maintenance Fees for the prior Option Term.

By way of example, if at the time of exercise of Option Term Year 8, County elects to adjust its Maintenance Fees for the Community-Based Web Reporting Module downward to 300 Concurrent User Licenses, then County's Maintenance Fees for Option Term Year 8 will be calculated based upon pricing indicated in the GSA Schedule for 300 Concurrent User Licenses. If, however, at the time of exercise of Option Term Year 9, County must readjust its Maintenance Fees for the Community-Based Web Reporting Module upward to 400 Concurrent User Licenses, then County's Maintenance Fees for Option Term Year 9 will be calculated based upon pricing indicated in the GSA Schedule for 400 Concurrent User Licenses, plus an amount equal to the number of calendar quarters during Option Term Year 8 the Concurrent Users exceeded 300 multiplied by the quarterly pricing indicated in the GSA Schedule for maintenance of 100 Concurrent User Licenses.

⁷ Subject to increase, as applicable, for increased Users or increased Labs during Initial Term as indicated in this Attachment C.1 (Maintenance Fees Detail).

vCMR Software Maintenance Fee Increase Initial Term – Fixed up to indicated number of Users or Labs (as applicable)

Module	User/Lab Increase	Annual Maintenance Fee Increase
vCMR Software Module	For every 10 Disease Prevention and Control Staff Concurrent User Licenses beyond 300 Concurrent User Licenses	\$3,082.92
Community-Based Web Reporting Module	For every 10 Physician/Infection Preventionist Concurrent User Licenses beyond 500 Concurrent User Licenses	\$1,813.56
Manual Lab Reporting Module	For every 10 additional Lab-based Manual Reporting Concurrent User Licenses beyond 30 Lab-based Concurrent User Licenses	\$1,813.56
Nurse Remote Access Module	For every 5 additional Public Health Nurse Remote Staff Concurrent User Licenses beyond 100 Concurrent User Licenses	\$1,914.24
Animal Report Module	For every 10 Veterinary Community Reporter Concurrent User Licenses beyond 20 Concurrent User Licenses	\$1,813.56

Electronic Lab Reporting Maintenance Fee Increase Initial Term – Fixed up to indicated number of Users or Labs (as applicable)

Module	User/Lab Increase	Annual Maintenance Fee Increase
Public Health Information Link	For every server License enabling up to 10 Lab connections beyond 50 Lab connections	\$7,254
ELR Gateway	For every additional ELR Gateway Kit per Lab connection beyond 23 Lab connections For each Lab beyond the aforementioned 23, a per Lab license fee of \$31,736.25 will also be charged for each instance of the ELR Gateway	\$6,347.16

Option Term Year 8 Estimated Maintenance Fee Calculation Detail

	per unit monthly	per unit annual	Projected Number of Users			
			users	users or connections licensed per unit	units	annual cost
WebVCMR	\$256.91	\$3,082.92	300	10	30	\$92,487.60
WebvCMR Physician	\$151.13	\$1,813.56	500	10	50	\$90,678.00
WebvCMR Manual Lab Reporting Module	\$151.13	\$1,813.56	30	10	3	\$5,440.68
WebvCMR Mobile User	\$159.52	\$1,914.24	100	5	20	\$38,284.80
Animal Report Module	\$151.13	\$1,813.56	20	10	2	\$3,627.12
NCM User*			3			\$1,026.00
PHIL	\$604.50	\$7,254.00	10	10	1	\$7,254.00
ELR Gateway Kit	\$528.93	\$6,347.16	23	1	23	\$145,984.68
APHIN Central Server**	\$785.01	\$9,420.12				\$9,420.12
Atlas Connect, CD Key, ARNOLD**						\$17,200.00
						\$411,403.00

* Reflects the negotiated pricing for maintenance for three licenses of Nursing Case Management that is provided as further consideration for the Transferred Property grant made by County to Contractor pursuant to this Agreement. If the County elects to purchase additional licenses to Nurse Case Management above the three licenses owned, maintenance for those additional licenses shall be as set forth on Attachment C.4 (Pool Dollars Detail & Additional Work Pricing) to this Exhibit C.

** Unlimited users

ATTACHMENT C.2

SUPPORT FEES DETAIL

EXHIBIT B (STATEMENT OF WORK) TASK AND DELIVERABLE 14

	Initial Term Year 1	Initial Term Year 2	Initial Term Year 3	Initial Term Year 4	Initial Term Year 5	Initial Term Year 6 ⁸	Initial Term Year 7 ⁸	Option Term Year 8 ^{8 9}	Option Term Year 9 ^{8 9}	Option Term Year 10 ^{8 9}
Quarterly Support Fee Payment	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250	\$21,250
Aggregate Annual Support Fees	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000

⁸ Subject to increase for the sixth and seventh year of the Initial Term and for all Option Terms under Paragraph 10.8 (Cost of Living Adjustments) of the Agreement.

⁹ Requires an Amendment under Paragraph 8.0 (Change Orders and Amendments) of the Agreement.

ATTACHMENT C.3

HOSTING FEES DETAIL

EXHIBIT B (STATEMENT OF WORK) TASK AND DELIVERABLE 15

	Initial Term Year 1	Initial Term Year 2	Initial Term Year 3	Initial Term Year 4	Initial Term Year 5	Initial Term Year 6 ¹⁰	Initial Term Year 7 ¹⁰	Option Term Year 8 ¹⁰ 11	Option Term Year 9 ¹⁰ 11	Option Term Year 10 ^{10 11}
Quarterly Hosting Fee Payment	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000
Aggregate Annual Hosting Fees	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000	\$212,000

¹⁰ Subject to increase for the sixth and seventh year of the Initial Term and for all Option Terms under Paragraph 10.8 (Cost of Living Adjustments) of the Agreement.

¹¹ Requires an Amendment under Paragraph 8.0 (Change Orders and Amendments) of the Agreement.

ATTACHMENT C.4

POOL DOLLARS DETAIL & ADDITIONAL WORK PRICING

POOL DOLLARS BY FISCAL YEAR – INITIAL TERM

EXHIBIT B (STATEMENT OF WORK) TASK AND DELIVERABLE 16

	Fiscal Year 2010-11	Fiscal Year 2011-12	Fiscal Year 2012-13	Fiscal Year 2013-14	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Fiscal Year 2017-18
Pool Dollars	\$99,977.50	\$199,955	\$199,955	\$199,955	\$199,955	\$199,955	\$199,955	\$99,977.50

HOURLY RATES

Year	Hourly Rate
Years 1-5 of Initial Term	\$145/hour
Years 6-7 of Initial Term	\$175/hour
All Option Terms	\$175/hour

ADDITIONAL PRODUCT LICENSE FEES

Nurse Case Management: In further consideration for the Transferred Property grant made by County to Contractor pursuant to this Agreement, Contractor hereby grants to County an exclusive, non-transferable option, exercisable by County at any time during the Term of this Agreement upon thirty (30) days advance written notice, to license Nurse Case Management from

Contractor as Additional Work at the price reflected on Attachment C.7 (GSA Schedule) to this Exhibit C, and subject to all other terms and conditions of this Agreement.

ADDITIONAL PRODUCT MAINTENANCE FEES

Nurse Case Management: In further consideration for the Transferred Property grant made by County to Contractor pursuant to this Agreement, Contractor hereby grants to County an exclusive, non-transferable option, exercisable by County at any time during the Term of this Agreement upon thirty (30) days advance written notice, to engage Contractor to provide as Additional Work, Maintenance Services for Nurse Case Management at the price reflected on Attachment C.7 (GSA Schedule) to this Exhibit C, and subject to all other terms and conditions of this Agreement.

ATTACHMENT C.5

CREDIT DETAIL

Annual credit may be applied in year indicated below only and may be applied against the Maintenance Fees, Support Fees, Hosting Fees and/or the purchase of Additional Work. The annual credit for each of Years 1 through 7 shall be made available to County in four equal installments on the first calendar day of each of August, September, October and November as indicated below, although County may use the credit throughout each year indicated below. The annual credit for each of Years 8 through 10 shall be made available to County in four equal installments as indicated below for application against each quarterly payment of Maintenance Fees during such year.

	Initial Term Year 1	Initial Term Year 2	Initial Term Year 3	Initial Term Year 4	Initial Term Year 5	Initial Term Year 6	Initial Term Year 7
Installment Credit Amount	(\$29,167)	(\$29,167)	(\$29,167)	(\$29,167)	(\$29,167)	(\$29,167)	(\$29,167)
Aggregate Annual Credit	(\$116,668)	(\$116,668)	(\$116,668)	(\$116,668)	(\$116,668)	(\$116,668)	(\$116,668)

(Option Term credits continued on the next page)

	Option Term Year 8 ¹²	Option Term Year 9 ¹²	Option Term Year 10 ¹²
Installment Credit Amount	(\$51,425.38)	(\$52,968.14)	(\$54,557.18)
Aggregate Annual Credit	(\$205,701.50)	(\$211,872.55)	(\$218,228.72)

¹² Requires an Amendment under Paragraph 8.0 (Change Orders and Amendments) of the Agreement. Additionally, amount of credit for each Option Term is intended to be fifty percent (50%) of the Maintenance Fees for such Option Term. The amount of credit indicated is an estimate based upon the estimated Maintenance Fees. Actual amount of the credit for each Option Term shall be fifty percent (50%) of the actual Maintenance Fees for such Option Term, as calculated in accordance with Attachment C.1 (Maintenance Fees Detail).

ATTACHMENT C.6
PRIOR CHANGE ORDER DETAIL

Prior Change Order Number	Prior Change Order Date	Maximum Fixed Price	Aggregate Amount Paid*	Remaining Balance*
31374	6/9/09 (approved)	\$14,616.00	\$10,962.00 (7308 + 3654)	\$3,654.00
38757	6/9/09 (approved)	\$17,052.00	\$12,789.00 (8526 + 4263)	\$4,263.00
39392	6/10/09 (approved)	\$5,684.00	\$4,263.00 (2842 + 1421)	\$1,421.00
45389	6/9/09 (approved)	\$17,458.00	\$13,093.50 (8727 + 4364.50)	\$4,364.50
46061	6/9/09 (approved)	\$70,644.00	\$52,983.00 (35,322 + 17,661)	\$17,661.00
46769	6/9/06 (approved)	\$18,676.00	\$14,007.00 (9338 + 4669)	\$4,669.00
48647	6/9/09 (approved)	\$13,398.00	\$10,048.50 (6699 + 3349.50)	\$3,349.50
48648	6/18/09 (approved)	\$39,788.00	\$29,841.00 (19,894 + 9947)	\$9,947.00
48649	6/9/09 (approved)	\$16,646.00	\$12,484.50 (8,323 + 4161.50)	\$4,161.50
48650	6/25/09 (approved)	\$19,488.00	\$14,616.00 (9744 + 4872)	\$4,872.00
24672	5/14/09 (approved)	\$1,450.00	-0-	\$1,450.00
35914	6/9/10 (approved)	\$8,526.00	\$2131.50	\$6,364.50
49118	8/26/09 (approved)	\$30,450.00	\$7612.50	\$22,837.50
69933.1	12/28/10 (approved)	\$98,680.00	-0-	\$98,680.00
		Total = \$372,556.00	Total = \$204,289.50	<u>Total = \$187,694.50</u>

ATTACHMENT C.7

GSA SCHEDULE

[see attached]



GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
**AUTHORIZED FEDERAL SUPPLY SERVICE
INFORMATION TECHNOLOGY SCHEDULE PRICELIST**

**GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
EQUIPMENT, SOFTWARE AND SERVICES**

The Atlas PHIN Suite is a state-of-the-art web-based communicable disease tracking, reporting, and case management system. By reducing manual entry and facilitating standards based communication between healthcare providers and public health officials, the Atlas PHIN Suite enables agencies to respond to potential threats to the public health rapidly and effectively.

Available under this contract:

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

SIN 132-32 - TERM SOFTWARE LICENSES

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

Application Software

Electronic Commerce (EC) Software

Microcomputers

Application Software

Electronic Commerce (EC) Software

SIN 132-33 - PERPETUAL SOFTWARE LICENSES

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

Application Software

Electronic Commerce (EC) Software

Microcomputers

Application Software

Electronic Commerce (EC) Software

SIN 132-34 - MAINTENANCE OF SOFTWARE

SIN 132-50 Training Courses For Information Technology Equipment And Software (FPDS Code U012)

SIN 132-51 - INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES

FPDS Code D302 IT Systems Development Services

FPDS Code D306 IT Systems Analysis Services

FPDS Code D307 Automated Information Systems Design and Integration Services

FPDS Code D308 Programming Services

FPDS Code D311 IT Data Conversion Services

FPDS Code D399 Other Information Technology Services, Not Elsewhere Classified

Note 1: All non-professional labor categories must be incidental to and used solely to support hardware, software and/or professional services, and cannot be purchased separately.

Note 2: Offerors and Agencies are advised that the Group 70 – Information Technology Schedule is not to be used as a means to procure services which properly fall under the Brooks Act. These services include, but are not limited to, architectural, engineering, mapping, cartographic production, remote sensing, geographic information systems, and related services. FAR 36.6 distinguishes between mapping services of an A/E nature and mapping services which are not connected nor incidental to the traditionally accepted A/E Services.

Note 3: This solicitation is not intended to solicit for the reselling of IT Professional Services, except for the provision of implementation, maintenance, integration, or training services in direct support of a product. Under such circumstances the services must be performance by the publisher or manufacturer or one of their authorized agents.

CONTRACTOR:

Atlas Development Corporation
26679 West Agoura Road, Suite 200
Calabasas, CA 91302
<http://www.atlasdev.com>

Contract Number: GS35F-0275W

Period Covered by Contract: 03/01/2010 – 2/28/2015

General Services Administration
Federal Acquisition Service

Price list current through Modification # _____, dated _____.

THIS CONTRACT IS SUBJECT TO COOPERATIVE PURCHASING
General Services Administration
Federal Supply Service

Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage! System. Agencies can browse GSA Advantage! by accessing the Federal Supply Service's Home Page via the Internet at <http://www.fss.gsa.gov/>

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Information for Ordering Activities

INFORMATION FOR ORDERING ACTIVITIES APPLICABLE TO ALL SPECIAL ITEM NUMBERS

SPECIAL NOTICE TO AGENCIES: Small Business Participation

SBA strongly supports the participation of small business concerns in the Federal Acquisition Service. To enhance Small Business Participation SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against the Federal Supply Schedules, and to report accomplishments against these goals.

For orders exceeding the micropurchase threshold, FAR 8.404 requires agencies to consider the catalogs/pricelists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage!™ on-line shopping service (www.fss.gsa.gov). The catalogs/pricelists, GSA Advantage!™ and the Federal Acquisition Service Home Page (www.fss.gsa.gov) contain information on a broad array of products and services offered by small business concerns.

This information should be used as a tool to assist ordering activities in meeting or exceeding established small business goals. It should also be used as a tool to assist in including small, small disadvantaged, and women-owned small businesses among those considered when selecting pricelists for a best value determination.

For orders exceeding the micropurchase threshold, customers are to give preference to small business concerns when two or more items at the same delivered price will satisfy their requirement.

1. GEOGRAPHIC SCOPE OF CONTRACT:

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

Offerors are requested to check one of the following boxes:

- ☐ The Geographic Scope of Contract will be domestic and overseas delivery.
- ☐ The Geographic Scope of Contract will be overseas delivery only.
- ☒ The Geographic Scope of Contract will be domestic delivery only.

2. CONTRACTOR'S ORDERING ADDRESS AND PAYMENT INFORMATION:

Send Orders and Payments to:

*Atlas Development Corporation
26679 West Agoura Road, Suite 200,
Calabasas, CA 91302*

Atlas will accept credit cards for payments equal to or less than the micro-purchase threshold for oral or written delivery orders. Credit cards will not be acceptable for payment above the micro-purchase threshold. In addition, bank account information for wire transfer payments will be shown on the invoice.

The following telephone number(s) can be used by ordering activities to obtain technical and/or ordering assistance:

Phone: (818) 340-7080

3. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor.

4. STATICAL DATA FOR GOVERNMENT ORDERING OFFICE COMPLETION OF STANDARD FORM 279:

Block 9: G. Order/Modification Under Federal Schedule

Block 16: Data Universal Numbering System (DUNS) Number: 84-451

Block 30: Type of Contractor - B-Small Business

Block 31: Woman-Owned Small Business - No

Block 36: Contractor's Taxpayer Identification Number (TIN): 59-3066241

4a. CAGE Code: TBD

4b. Contractor has registered with the Central Contractor Registration Database.

5. FOB DESTINATION

6. DELIVERY SCHEDULE

a. **TIME OF DELIVERY:** The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER	DELIVERY TIME (Days ARO)
<i>SIN 132-32</i>	<i>30 Days</i>
<i>SIN 132-33</i>	<i>30 Days</i>
<i>SIN 132-34</i>	<i>30 Days</i>
<i>SIN 132-50</i>	<i>30 Days</i>
<i>SIN 132-51</i>	<i>30 Days</i>

Expedited Delivery is not available

b. **URGENT REQUIREMENTS:** When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. DISCOUNTS: Prices shown are NET Prices; Basic Discounts have been deducted.

- a. Prompt Payment: There are no prompt payment discounts
- b. Quantity: There are no Quantity discounts with this contract.
- c. Dollar Volume: There are no dollar volume discounts with this contract.
- d. Government Educational Institutions: Government Educational Institutions are offered the same discounts as all other Government customers.
- e. Other: None

8. TRADE AGREEMENTS ACT OF 1979, as amended:

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

9. STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING: None

10. Small Requirements: The minimum dollar value of orders to be issued is \$100.00.

11. MAXIMUM ORDER (All dollar amounts are exclusive of any discount for prompt payment.)

a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:

Special Item Number 132-32 - Term Software Licenses

Special Item Number 132-33 - Perpetual Software Licenses

Special Item Number 132-34 - Maintenance of Software

Special Item Number 132-51 - Information Technology (IT) Professional Services

b. The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:

Special Item Number 132-50 - Training Courses

12. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.

b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.

13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATION STANDARDS

REQUIREMENTS: ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.

13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS):

Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.

13.2 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS): Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Acquisition Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.

14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2003)

(a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.

(b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.

(c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications

offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.

(d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.

(e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.

(f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.

(g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.

(h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.

(i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.

(j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

(k) Overtime: For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

16. GSA ADVANTAGE!

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.: NetScape). The Internet address is <http://www.fss.gsa.gov/>.

17. PURCHASE OF OPEN MARKET ITEMS

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f). For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order. **only if-**

- (1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
- (2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- (3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- (4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

- (1) Time of delivery/installation quotations for individual orders;
- (2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/service/software package submitted in response to requirements which result in orders under this schedule contract.
- (3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

19. OVERSEAS ACTIVITIES

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

This Contract does to apply to overseas activities

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis, and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

20. BLANKET PURCHASE AGREEMENTS (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

21. CONTRACTOR TEAM ARRANGEMENTS

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

22. INSTALLATION, DEINSTALLATION, REINSTALLATION

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8.

23. SECTION 508 COMPLIANCE.

If applicable, Section 508 compliance information on the supplies and services in this contract are available in Electronic and Information Technology (EIT) at the following:

Atlas Development Corporation's APHIN Suite of software is Section 508 compliant whereby employees with disabilities have the same accessibility to and use of the APHIN information and data that employees without disabilities have to the APHIN information and data.

The EIT standard can be found at: www.Section508.gov/.

24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement:

This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

25. INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)(FAR 52.228-5)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

26. SOFTWARE INTEROPERABILITY.

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry located at <http://www.core.gov>.

27. ADVANCE PAYMENTS

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

Terms and Conditions Applicable to Term and Perpetual Software Licenses (SIN 132-32&132-33) and Maintenance of Software (SIN 132-34)

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

2. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

Atlas Development Corporation's Warranties and Liability

(a) General. *ATLAS represents and warrants to CLIENT that the Software as modified shall function without Material Defect in accordance with the Specifications during the Warranty Period and thereafter during any period for which CLIENT continues to receive software maintenance.*

(b) Disabling Code Covenant. *Atlas represents and covenants to CLIENT that the Software does not contain any Disabling Code. In the event a Disabling Code is identified, Atlas shall take all steps necessary, at no additional cost to CLIENT, to: (i) restore and/or reconstruct any and all data and/or programming lost by CLIENT as a result of such Disabling Code; (ii) furnish to CLIENT a new copy of the Software without the presence of Disabling Codes; and (iii) install and implement such new copy of the Software. CLIENT acknowledges that the Software may contain an enabling mechanism that requires the use of an electronic key provided by Atlas to enable the Software to operate on each Server upon which the Software is installed. At no additional cost to CLIENT, Atlas shall provide any such electronic keys to CLIENT upon demand during ATLAS' hours of support.*

(c) Services Warranty. *Atlas represents and warrants to CLIENT that it shall perform the services and provide the deliverables required by this Agreement in accordance with industry practices and standards generally applicable to such services.*

(d) Exclusions. *In no event shall ATLAS bear any responsibility for any Defects caused by or resulting from defects in equipment, data input errors, changes to the Software made by anyone other than ATLAS, or combinations of the Software with software not provided by or recommended by ATLAS. Any modifications to the Software made by anyone other than ATLAS shall relieve ATLAS of any and all obligations under this Section with respect to such modified portions of the Software and, to the extent such modification causes a failure of the Software to operate as warranted, any code with which it interacts.*

(e) Intellectual Property Warranty. *ATLAS represents that CLIENT's use of the Software does not and shall not infringe upon any patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party, and there is currently no actual or threatened suit against ATLAS by any third party based on an alleged violation of such right. CLIENT warrants and represents that it possesses the requisite rights through its licensing agreements (including without limitation copyright, trade secret, patent and other intellectual property rights) in and to any data, information, hardware, software and other materials it may provide for Atlas's use.*

(f) Warranty of Authority. *Each party represents and warrants to the other that it has the right to enter into this Agreement. ATLAS further represents and warrants that, except as expressly provided in this Agreement, there are no outstanding assignments, grants, licenses, encumbrances, obligations or agreements (whether written, oral or implied) that are inconsistent with this Agreement and the rights granted or transferred herein.*

(g) Indemnities.

(i) General. *Each party shall indemnify, defend and hold the other party and its directors, officers, shareholders, employees, representatives, agents, attorneys, successors and assigns (collectively, "Indemnified Parties") harmless from and against any and all claims, liabilities, obligations, judgments, causes of*

actions, costs and expenses (including reasonable attorneys' fees) arising out of any breach by a party of the confidentiality obligations. Nothing contained in this Section, however, shall bar a claim for contributory negligence.

(ii) Proprietary Rights Infringement Indemnification. Atlas shall indemnify, defend and hold CLIENT and its Indemnified Parties harmless from and against any claim asserted or any claim, suit or proceeding brought against CLIENT alleging that the Software or CLIENT's use of the Software constitutes a misappropriation or infringement upon any patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party. Atlas shall defend against, and hold CLIENT and its Indemnified Parties harmless from, any such claims and pay all litigation costs (including the costs of any appellate bonds), all reasonable attorneys' fees, settlement payments and any and all damages awarded or resulting from any such claim; provided, however, that after receiving notice thereof, CLIENT promptly shall advise Atlas of any such claim, suit or proceeding. If the Software or any part thereof is held to infringe upon any patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party, and CLIENT's use of such Software, or any part thereof, is enjoined or interfered with in any manner, at its option and sole expense, within thirty (30) calendar days of such injunction or interference, Atlas shall either: (a) procure for CLIENT the right to continue using such Software free of any liability for infringement or violation; (b) replace or modify such Software with a non-infringing system or product of equivalent or better functionality that is reasonably satisfactory to CLIENT; or (c) in the event Atlas is unable, after exercising its best efforts to implement one of the options set forth in subsection (a) or (b) above, accept return of the Software at Atlas' sole cost and expense and refund to CLIENT an amount equal to the amounts paid by CLIENT to Atlas for the Software under this Agreement depreciated over the following term and in the following amounts (commencing upon Project Acceptance):

Year(s)	% Depreciation	% Refund
1	0%	100%
2	12.5%	87.5%
3	37.5%	62.5%
4	62.5%	37.5%
5	87.5%	12.5%
6	100%	0.00%

(h) Intentionally omitted.

(i) Intentionally omitted.

(j) Warranty Disclaimer. THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS, OR COVENANTS, WHETHER EXPRESS, IMPLIED OR STATUTORY (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY DISCLAIMED.

(k) Limitation of Liability.

(i) Limitation Upon Types of Recoverable Damages. NEITHER PARTY HERETO SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF THE ACTION (BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

(ii) Cap on Damages. ATLAS'S AGGREGATE LIABILITY TO CLIENT FOR ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION (BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE), SHALL NOT EXCEED THE AGGREGATE SUM OF ALL FEES PAID BY CLIENT DURING THE ONE-YEAR PERIOD PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

(iii) Exclusions from Limitations of Liability. Notwithstanding anything contained herein to the contrary, the limitations of liability contained in this Section shall not apply to: (a) damages arising out of or relating to a party's failure to comply with its confidentiality obligations; (b) either party's indemnification obligations under this Section; and (c) personal injury, including death, and damage to tangible property caused by the negligence or willful misconduct of a party or its employees, agents or subcontractors.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number (800) 333-0070_ for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 5:00am to 6:00pm Pacific Time Monday through Friday.

4. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined: (select software maintenance type) :

 1. Software Maintenance as a Product

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

 X 2. Software Maintenance as a Service

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

For so long as CLIENT continues to participate in the Maintenance Program (which participation may include the payment of additional fees as applicable), CLIENT shall be entitled to the following:

1. Correction of Defects. ATLAS shall maintain the Atlas Software so that it functions without Defects in accordance with the Documentation, and will correct any such Defects in accordance with the procedures set forth in this document. All efforts by ATLAS personnel associated with the identification and resolution of such Defects shall be included as part of maintenance. From the moment a Problem is reported to ATLAS, all time spent working on the identification of the nature of the Problem will be tracked. If the Problem is determined to be a Defect, the

time spent in identifying the Defect, as well as the time spent resolving the Defect will be provided without additional charge as part of the maintenance program.

2. **Maintenance Releases.** *ATLAS shall make available to CLIENT all maintenance releases of the Atlas Software and the technical and end user Documentation. ATLAS shall provide timely response to CLIENT inquiries concerning future releases and planned enhancements to functionality, including development road maps.*

3. **Enhancements and Modifications.** *ATLAS shall provide all enhancements and modifications to the Atlas Software that CLIENT reasonably believes are necessary to ensure that it continues to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, provided, however, that the CLIENT must provide ATLAS with timely notice of its obligations to ensure ATLAS can deliver such enhancements or modifications of the Atlas Software within the time required for CLIENT to comply.*

4. **Location for Performance of Support Services and Maintenance Services.** *At ATLAS's election, maintenance and support services may be performed at CLIENT's premises or via modem communication to CLIENT's server. Except for an emergency or otherwise at the request of CLIENT, all services performed at CLIENT's premises or at an Authorized User Site or Server Location shall be performed during CLIENT's or the Authorized User's normal business hours. CLIENT agrees to provide access to its system via a telephone line and a modem with a minimum baud rate of 1.1 mbps for such purpose; provided, however, that CLIENT shall have the right to disconnect such modem at any time for any reason. CLIENT acknowledges that disconnection of its modem may adversely affect the Defect resolution time frames.*

Support

Support includes all efforts associated with the identification and resolution of support issues. From the moment a Problem is reported to ATLAS, all time spent working on the identification of the nature of the Problem will be tracked. If the Problem is determined to be a support issue (e.g. not a product defect), the time spent in identifying the nature of the support issue, as well as the time spent resolving the support issue will be subject to an additional hourly charge as part of the support program.

b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

5. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.

c. **Annual Funding.** When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.

d. **Cross-Year Funding Within Contract Period.** Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

- a. The ordering activity may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the ordering activity the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.
- b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the ordering activity.
- c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.
- d. The price the ordering activity shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to 100% of all term license payments during the period that the software was under a term license within the ordering activity.

7. TERM LICENSE CESSATION

- a. After a software product has been on a continuous term license for a period of 12 * months, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the ordering activity. The period of continuous term license for automatic accrual of a fully paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the ordering activity. However, should the term license of the software be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.
- b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number 132-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.

8. UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
 - (2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.
 - (3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the

ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

(4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

(5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

9. SOFTWARE CONVERSIONS - (132-32 AND 132-33)

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

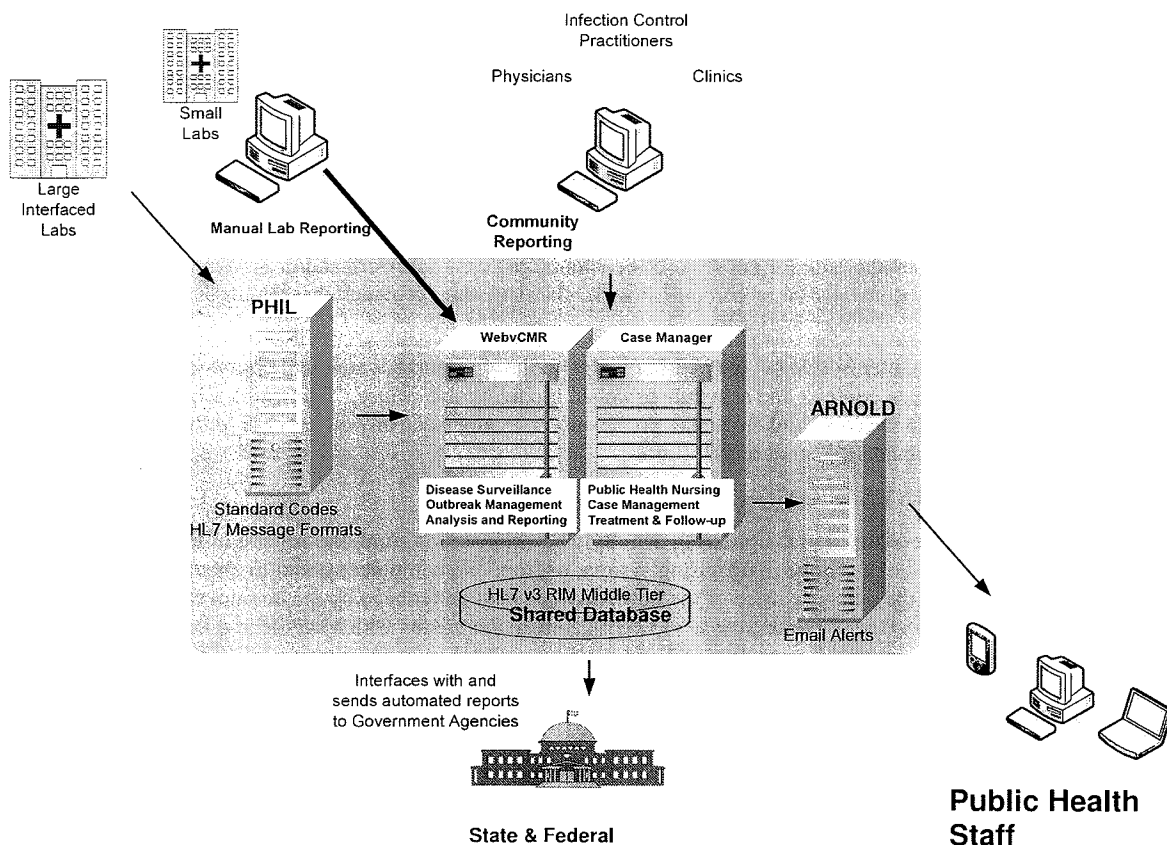
10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

ATLAS PHIN SUITE SOFTWARE MODULES

With the knowledge acquired from strong partnerships with local, state and federal representatives, Atlas Development Corporation has been able to create a suite of software solutions that meet federal guidelines but also gives users from all levels the capacity to conduct their work in the simplest and most streamlined manner. The Atlas PHIN suite of software solutions provides the capacity to collect complete and timely surveillance information from health care providers and laboratories throughout the community and equips health department personnel with tools for disease investigation, case management, outbreak control and trend analysis.

Overview of Surveillance and Case Management functionality



Atlas Public Health Information Network Suite Central Server

The Atlas Public Health Information Network Suite Central Server grants access to all patient records, patient charts, and associated reportable incidents through extensible database structures for outbreak and incident management, public health nursing, billing, and robust risk-history and epidemiological case investigation forms. The Central Server is the central organization of health data and application business logic. The object hierarchy has been derived from both the CDC Public Health Logical Data Model 1.0 and the Health Level 7 (HL7) Reference Information Model (RIM). This is the common schema all data is transformed and translated into, connecting the SQL Server DB to the client Web GUI. Since the repository is based completely upon the HL7 RIM, it is fully compliant with the Centers for Disease Control Public Health Information Network (PHIN) requirements.

WebVisual CMR (WebvCMR)

The WebvCMR system then acts as the main data access center for use by public health officials at the health department such as Communicable Disease Investigators and Epidemiologists. Data reported through the Community Reporting Module, and electronically reported laboratory results are transferred directly into the WebvCMR system. Based upon these automatically transferred data sources and manual entry of cases reported via traditional data sources such as phone calls and faxes, new cases of communicable diseases are recorded in the WebvCMR HL7 RIM derived database. Additionally, when a fax or any other paper document of importance is received along with a case, it can be added to the new case file by scanning it and adding it to the patient's Electronic Filing Cabinet either inside the Community Reporting Module or in the main WebvCMR system.

Once a new case is initiated, any significant health and/or transmission related information can be added to the patient's record, for example, information on the patient's family members, contacts, travel activities, significant

dates, etc. To assist the user in making sure all of the relevant information is captured the main incident record is separated into tabs. The first tab is for capturing all relevant demographics, the next set of tabs (up to 3) are for disease specific data, and the final tab is for standard case investigation data such as relevant dates, status of the case, regional assignment and investigator assignment. In order to maintain consistent address information the system automatically standardizes addresses based upon census information and records latitude and longitude.

Community reporting module (CRM)

The Atlas PHIN suite of solutions provide complete communicable disease and outbreak management including outbreak recognition, case investigation, event notification, case management, disease surveillance and reporting. The Community Reporting Module (CRM) is an external web-based reporting program that can be used by many different agencies throughout the community to report significant disease occurrences. These reports can be made by infection control practitioners, physicians, veterinarians, clinic personnel or if desired even non-traditional data sources such as school nurses, coroner's offices, or poison control. The Community Reporting Module allows significant community-wide data to be reported directly into the WebvCMR system to initiate new cases.

WebvCMR Manual Lab Reporting

For laboratories that do not report a high enough volume of reports to the health department to necessitate a direct interface and electronic lab reporting (ELR), Atlas provides a Manual Lab Reporting Module. This module allows users to login from any laboratory through the internet in a secure manner and submit lab results, positive or non-positive for follow-up confirmation. These reports automatically generate HL7 messages that are sent into WebvCMR in the same manner as directly interfaced ELR systems. The reports generated through the Manual Lab Reporting module are used by WebvCMR in the same manner with the same rules that are applied to electronically reported results.

WebvCMR Mobile

The WebvCMR Mobile application allows the user to take incident or case data into a mobile device and go into the field to fill out case report forms directly on their device while they are offsite. Field users can come back to their workstations and upload information back into the database. WebvCMR Mobile also allows the user to capture disease related information as well as outbreak boundary coordinates for the affected geographic area. WebvCMR Mobile enables investigators to have vital disease information available to them during an outbreak and to be able to capture information that they may obtain while in the field.

WebvCMR Animal Report

The animal reporting functionality is a non-human reporting mechanism that allows veterinarians to provide the health department information on tracking animal incidents of disease and if applicable, connecting those to human outbreaks. A non-human subject can be connected directly to an outbreak or group event as an animal report. Animal reports can be defined within the animal report screen and can include lab test result information pertaining to the animal itself. Details regarding the animal, its location, signs and symptoms, specimens, and lab test results can all be captured within the animal report and connected to the outbreak or group event.

Nurse Case Manager (NCM)

Once the preliminary analysis of a new case is completed by a health department investigator that person can decide whether or not the patient needs further case management. If they do, the investigator can utilize Atlas' Nurse Case Manager (NCM) system. Since both WebvCMR and NCM reside on a unified database, data that is held in the WebvCMR record is available in Nurse Case Manager. This includes investigation data such as demographics, contacts, dates, and even user defined forms that have been completed.

Nurse Case Manager (NCM) is a complete person-centric case management system that enables the user to record every type of significant health information about an individual. This includes a complete medical history with medications, laboratory tests and results, chronic diseases, communicable diseases, maternal and child health, and

health based interventions. Nurse Case Manager also records extensive information on family members and contacts and can easily add roles for any person, making a family member into case or making a contact into case while retaining all the original connections. Since Nurse Case Manager is primarily used by public health nurses who often do home visits it is portable, allowing the user to check out cases, work remotely and then check the cases back in, resynchronizing with the main system.

To monitor the progress of public health outreach and intervention activities, Nurse Case Manager has a large number of reports. These reports provide information on a range of activities from the time spent by nurses on each service to intervention outcome statistics. In summary, Nurse Case Manager provides a convenient interface for nurses to check in patients, assign patients to case management, track the significant events of cases, monitor progress, administer public health agendas and obtain reports on the results.

NCM Mobile

NCM Mobile allows portability of NCM within laptops for use in the field. When records are checked out and NCM users are disconnected from the network, temporary files with minimal data are created on the laptop computer database. Thus, when a nurse investigator selects an open case and decides that an on-site visit is necessary with that patient, that case can be checked out of the main Nurse Case Management system. Checking out the case file changes its status to read only for any other user of the main system. While the file is checked out, the nurse can make changes on the laptop version of the Nurse Case Management file, but others using the main system can only view that record.

Then, when the nurse is finished making changes to the patient's file, the lap top can be reconnected to the main Nurse Case Management system and the case file will be checked back into the system synchronizing the new data into the main system. Then the main Nurse Case Management system updates the patient's file with all of the changes added and the updated file becomes available to any other users of the main system. This portability makes the NCM system ideal for those who need to work in the field and want to do data entry during contact with the patient versus having to do it later while back at their workstation.

Advanced Rapid Notification and On-Line Delivery (ARNOLD)

ARNOLD is a notification system that communicates electronic notifications about specific events including alerts based on new incidents of diseases being reported, changes to a status of a case, addition of files to an incident record, or a threshold exceeding event. Additionally, it can also be utilized for operational support by issuing automatic reminders of delinquent cases and follow-up actions to specific case investigators, public health nurses, or case managers

The system is extremely flexible, and can be configured to monitor any data stream, including any transactional component of the suite, or even any automated notification system. ARNOLD is completely content neutral, and therefore can communicate notifications concerning information posted from any system. It also offers a complete historical audit trail including notification events and electronic notification acknowledgements (if the same are supported by the recipient system). As a result, the system can be used to automate certain business processes that depend on notification, enhancing productivity, streamlining workflow and improving responsiveness.

CD Key

To facilitate mobile two-factor authentication, Atlas offers the Atlas CD-key. CD Key facilitates the issuance and administration of standard X.509 digital certificates for each authorized user. Certificates are managed by a centralized, off-network, computer that burns the encrypted certificate file and management software on either a credit card sized compact disc or USB memory stick. Once a user is properly identified (at the Web Server) with a valid certificate from the CD Key, the utility program opens the requested application in a browser. At this time, the application behaves as usual, i.e. the user is prompted to supply a valid user name and password combination to continue. You can easily administer remote access, issuing new certificates quickly and cost-effectively to hundreds

or even thousands of users. Expiration can be set to occur within any time period from one day to months or years, and authorization for a particular user can be withdrawn at any time.

Atlas Connect

The Atlas Connect software (AC) provides a powerful and easy-to-use mechanism for automatic and secure transfer of files to and from a server providing an always-on, real time communication bridge without requiring a VPN connection. Its low impact on an environment makes it a perfect candidate where security is a concern and using a VPN is not a viable option. Atlas Connect uses the familiar http port, often already opened for web browsing, so set up and maintenance becomes a simple procedure with automatic alerts sent in the event of a communication failure.

Public Health Information Link (PHIL)

As the preeminent provider of clinical connectivity solutions for laboratories nationwide, Atlas has extensive experience working with laboratory information systems and other legacy healthcare enterprise applications. In order to provide effective and automated communication of laboratory result information for cases of reportable incidents, proper use of nationally recognized standard code sets, such as LOINC and SNOMED, is crucial. PHIL provides a "plug-and-play" solution for regional laboratories that desire to comply with their statutory obligations to report infectious disease incidents to Public Health agencies electronically. The system handles the mapping between local lab codes and national standard code sets, and translates and modifies non-standard file formats (e.g., tab-delimited flat files) to CDC preferred HL7 formatted FHIR messages. Reports of notifiable disease conditions are transmitted to the Atlas WebvCMR module for intake, processing and investigation, providing a truly integrated model for public health surveillance.

The APHIN suite has been designed and optimized to utilize Microsoft based technology. The following is a breakdown of what platforms are supported:

Hardware: Intel x64 bit processors

Operating Systems: Windows 2003 64 bit Standard and Enterprise

Database Servers: Microsoft SQL Server 64 bit Enterprise Edition

Web and Application Servers: ASP.NET 2.0 and IIS 6

11. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses.

Atlas Development Corporation does not offer right-to-copy discounted pricing

Terms and Conditions Applicable to Purchase of Training Courses (SIN 132-50)

1. SCOPE

- a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location, as agreed to by the Contractor and the ordering activity.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

3. TIME OF DELIVERY

The Contractor shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the ordering activity.

4. CANCELLATION AND RESCHEDULING

- a. The ordering activity will notify the Contractor at least seventy-two (72) hours before the scheduled training date, if a student will be unable to attend. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class.
- b. In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a training class within ninety (90) days from the original course date, at no additional charge.
- c. The ordering activity reserves the right to substitute one student for another up to the first day of class.
- d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date.

5. FOLLOW-UP SUPPORT

The Contractor agrees to provide each student with unlimited telephone support for a period of one (1) year from the completion of the training course. During this period, the student may contact the Contractor's instructors for refresher assistance and answers to related course curriculum questions.

6. PRICE FOR TRAINING

The price that the ordering activity will be charged will be the ordering activity training price in effect at the time of order placement, or the ordering activity price in effect at the time the training course is conducted, whichever is less.

7. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

8. FORMAT AND CONTENT OF TRAINING

a. The Contractor shall provide written materials (i.e., manuals, handbooks, texts, etc.) normally provided with course offerings. Such documentation will become the property of the student upon completion of the training class.

Atlas Development Corporation provides all students training manuals for use during training and these manuals become the property of the student upon completion of the training class.

b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.

Atlas Development Corporation provides training at ordering activity's provided training locations as described below. Ordering activity is expected to provide requisite PCs with web browsers and Internet connectivity at these ordering activity training locations.

c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.

Atlas Development Corporation will provide each student with a Certificate of Training at the completion of each training course.

d. The Contractor shall provide the following information for each training course offered:

(1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);

Below is a description of Atlas' End User Training which is the 1st of 3 types of training courses offered during a typical implementation of our software.

Atlas Development Corporation's End User Training

End user training presents the functionality most commonly used by end users and is designed with two objectives:

- i. Educate System Administrators on system use so they understand concepts in the proper context in order to configure the system.*
- ii. Prepare test team for Alpha Testing.*

Personnel that will provide help desk support and training for the application should attend as well in order to prepare the proper knowledge base. The course format is lecture and hands-on training.

(2) The length of the course;

One day

(3) Mandatory and desirable prerequisites for student enrollment;

Mandatory prerequisite is that the student is employed by the ordering agency. The desirable prerequisite is that the student will be an authorized user of the Software.

(4) The minimum and maximum number of students per class;

The minimum number of students is 2. The maximum number of students is 16.

(5) The locations where the course is offered;

Atlas Development Corporation provides training at ordering activity's provided training locations.

(6) Class schedules; and

End User Training typically occurs during the implementation process before the configuration phase. Atlas will work with the ordering activity in scheduling the class at a mutually convenient time.

(7) Price (per student, per class (if applicable)).

Each course the price is as outlined and mutually agreed in paragraph 6 above plus travel expenses. Atlas Development Corporation's travel expenses shall be in accordance with Pub. L. 99-234 and FAR Part 31.205-46.

The Contractor shall provide the following information for each training course offered:

(1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);

Below is a description of Atlas' End User Training which is the 2nd of 3 types of training courses offered during a typical implementation of our software.

Atlas Development Corporation's "Train-the-Trainer" Training

Attendees should also attend the End User sessions prior to the Train-the-Trainer training. This training is designed for people who will be providing training to additional users. The focus of this session is on the pedagogical strategies applicable to delivering education on our software. For example, while a topic of discussion for End User training may be how to use the Search page, in the Train the Trainer session attendees will learn how to present the topic to students, including pointers on mistakes commonly made by users when they complete the training exercises. The course format is lecture and hands-on training.

(2) The length of the course;

One day

(3) Mandatory and desirable prerequisites for student enrollment;

Mandatory prerequisite is that the student is employed by the ordering agency. The desirable prerequisite is that the student attended the "End User" training.

(4) The minimum and maximum number of students per class;

The minimum number of students is 2. The maximum number of students is 16.

(5) The locations where the course is offered;

Atlas Development Corporation provides training at ordering activity's provided training locations.

(6) Class schedules; and

"Train-the-Trainer" typically occurs on the following day after the "End User" training. Atlas will work with the ordering activity in scheduling the class at a mutually convenient time.

(7) Price (per student, per class (if applicable)).

Each course the price is as outlined and mutually agreed in paragraph 6 above plus travel expenses. Atlas Development Corporation's travel expenses shall be in accordance with Pub. L. 99-234 and FAR Part 31.205-46.

The Contractor shall provide the following information for each training course offered:

(1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);

Below is a description of Atlas' Advanced Query Training which is the 3rd of 3 types of training courses offered during a typical implementation of our software.

Atlas Development Corporation's Advanced Query Training

A session dedicated to advanced query techniques is provided to data analysts and epidemiologists to data mine the database and create custom reports.

(2) The length of the course;

One day

- (3) Mandatory and desirable prerequisites for student enrollment;

Mandatory prerequisite is that the student is employed by the ordering agency. The desirable prerequisite is that the student attended the "End User" training.

- (4) The minimum and maximum number of students per class;

The minimum number of students is 2. The maximum number of students is 16.

- (5) The locations where the course is offered;

Atlas Development Corporation provides training at ordering activity's provided training locations.

- (6) Class schedules; and

The Advanced Query Training typically occurs after the standard training program has concluded. Atlas will work with the ordering activity in scheduling the class at a mutually convenient time.

- (7) Price (per student, per class (if applicable)).

Each course the price is as outlined and mutually agreed in paragraph 6 above plus travel expenses. Atlas Development Corporation's travel expenses shall be in accordance with Pub. L. 99-234 and FAR Part 31.205-46.

- e. For those courses conducted at the ordering activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.

9. "NO CHARGE" TRAINING

The Contractor shall describe any training provided with equipment and/or software provided under this contract, free of charge, in the space provided below.

Atlas Development Corporation does not offer a "No Charge" training program with its software packages

Terms and Conditions Applicable to Information Technology (IT) Professional Services (Special Item Number 132-51) and Electronic Commerce (EC) Services (Special Item Number 132-52)

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT/EC Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

2. PERFORMANCE INCENTIVES

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

4. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the

Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. INSPECTION OF SERVICES

The Inspection of Services-Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection-Time-and-Materials and Labor-Hour (JAN 1986) (Deviation – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

7. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

8. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

9. INDEPENDENT CONTRACTOR

All IT Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

10. ORGANIZATIONAL CONFLICTS OF INTEREST

a. Definitions.

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

11. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

12. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003)) applies to labor-hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition As prescribed in 16.601(e)(3), insert the following provision:

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—

- (1) The offeror;
- (2) Subcontractors; and/or
- (3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

16. DESCRIPTION OF IT SERVICES AND PRICING

Atlas Development Corporation's Labor Category Descriptions

Commercial Job Title: *Project Manager*

Minimum/General Experience:

At least 2 years project management experience in a software or healthcare environment.

Functional Responsibility:

The Project Manager (PM) is responsible for developing project plans, monitoring progress and ensuring deliverables are met on time and within budget. The PM is responsible for coordinating and managing resources internally across a matrixed organization and coordinating activities within the client environment.

Minimum Education:

B.S. in Business Management or related field with a Project Management Professional ("PMP") certification

Commercial Job Title: *Implementation Specialist*

Minimum/General Experience:

At least 2 years related experience (e.g. software development; analysis or implementation in a customer facing role)

Functional Responsibility:

Under general supervision, the Implementation Specialist is responsible for the successful implementation and deployment of technically complex software solutions in the client environment. The IS will act as the client's technical advocate within the company promoting thoughts and ideas that contribute towards a more efficient and productive implementation of Atlas Development Corporation products for the client. The IS will create detailed technical checklists and processes that need to be followed for the implementation in a new client environment, or version upgrades of products in an existing client environment. The IS will analyze a client's business rules and effectively communicates them to Development, QA, Documentation, Support, and other individuals or teams. The IS will assist in the development of Test Plans for Alpha and Beta phases of the implementation, based on client specific business model.

Minimum Education:

B.S. in Computer Science or related field. Working knowledge of VB .NET, C++, C#, ADO.NET, ASP.NET.

Commercial Job Title: *Software Developer*

Minimum/General Experience:

At least 2 years experience in software engineering.

Functional Responsibility:

The software developer is responsible for producing state of the art software solutions used to automate the flow of clinical information in a healthcare setting. Working within a team environment, the software engineer must be able to collaborate across multiple departments including Technical Support, Implementations, Project Management, and Quality Assurance.

Minimum Education:

A Bachelor of Science degree in Computer Science or related field. Knowledge of .NET (ASP, C# or VB.net), multi-tiered application design and development, RDBMS design (SQL Server, Oracle, etc.), HTML/DHTML and JavaScript.

Commercial Job Title: *System Analyst*

Minimum/General Experience:

Three (3) years of technical experience which applies to systems analysis and design techniques for complex computer systems. Requires competence in all phases of systems analysis techniques, concepts and methods; also requires knowledge of available hardware, system software, input/output devices, structure and management practices.

Functional Responsibility:

Guides users in formulating requirements, advises alternative approaches, conducts feasibility studies

Minimum Education:

Bachelor's Degree in Computer Science

Atlas Development Corporation labor categories:

LABOR CATEGORY	GSA PRICE Hourly Rate (w/o IFF)
Project Manager	\$148.50
Implementation Specialist	\$139.50
Software Developer	\$157.50
System Analyst	\$175.50

Products and Services Pricelist

Atlas Development Corporation
Effective: January 2008

<i>SIN 132-32 Term Software License</i>	Proposed GSA Price	Licensing Type
Atlas Public Health Information Network Suite Central Server License*	\$47,100.63	Per server
WebvCMR		
User License, 10 Disease Prevention and Control Staff licenses*	\$15,414.75	License: User-based (packets of 10 Concurrent Users)
Physician License, 10 Community-Based Web Reporting licenses*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
Manual Lab Reporting Module, 10 Laboratory-based Manual Reporting license*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
WebvCMR Mobile user license, 5 Public Health Nurse Remote Staff licenses	\$9,571.25	License: User-based (packets of 5 Concurrent Users)
Animal Report Module, 10 Veterinary Community Reporters*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
NCM		
User license, 10 Public Health Nurse Staff licenses*	\$15,414.75	License: User-based (packets of 10 Concurrent Users)
Mobile user license, 5 Public Health Nurse Remote Staff licenses*	\$9,571.25	License: User-based (packets of 5 Concurrent Users)
Automated Rapid Notification On-Line Delivery (ARNOLD) License*	\$31,736.25	License: Per Server
CD Key		
Application License*	\$40,803.75	License: Per Application Instance
Enterprise License*	\$94,201.25	License: Enterprise
Package of 250 CDs	\$604.50	
Atlas Connect (AC)		
Atlas Connect (Enterprise License*)	\$42,818.75	License: Enterprise
Atlas Connect (Server License*)	\$13,601.25	License: Server
Atlas Connect (Single instance*)	\$4,533.75	License: Lab based
Public Health Information Link (PHIL)		
Public Health Information Link*	\$36,270.00	License: Server license enabling up to 10 lab connections

ELR Gateway Kit		
Total ELR Gateway Kit License*	\$31,736.25	License: Lab based
Atlas Connect (AC) (Single instance for 1 lab)	Inc	
Atlas Interface Engine (AIE) (includes 1 Interface for 1 lab)	Inc	
miniPHIL	Inc	
LOINC/SNOMED encoding of Test Catalog reportable incidents	Inc	
Atlas Interface Engine (AIE) (transforms HL7 message which must have fully populated ELR data to an appropriate HL7 compliant message)		
Custom Interface (Interface transformation not in existing library)	\$18,135.00	License: Lab based
Existing Interface (transformation of an existing library)	\$13,601.25	License: Lab based
*Will incur a maintenance fee		

<i>SIN 132-33 Perpetual Software License</i>	Proposed GSA Price	Licensing Type
Atlas Public Health Information Network Suite Central Server License*	\$47,100.63	Per server
WebvCMR		
User License, 10 Disease Prevention and Control Staff licenses*	\$15,414.75	License: User-based (packets of 10 Concurrent Users)
Physician License, 10 Community-Based Web Reporting licenses*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
Manual Lab Reporting Module, 10 Laboratory-based Manual Reporting license*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
WebvCMR Mobile user license, 5 Public Health Nurse Remote Staff licenses	\$9,571.25	License: User-based (packets of 5 Concurrent Users)
Animal Report Module, 10 Veterinary Community Reporters*	\$9,067.50	License: User-based (packets of 10 Concurrent Users)
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Mobile user license, 5 Public Health Nurse Remote Staff licenses*	\$9,571.25	License: User-based (packets of 5 Concurrent Users)
Automated Rapid Notification On-Line Delivery (ARNOLD) License*	\$31,736.25	License: Per Server

CD Key		
Application License*	\$40,803.75	License: Per Application Instance
Enterprise License*	\$94,201.25	License: Enterprise
Package of 250 CDs	\$604.50	
Atlas Connect (AC)		
Atlas Connect (Enterprise License*)	\$42,818.75	License: Enterprise
Atlas Connect (Server License*)	\$13,601.25	License: Server
Atlas Connect (Single instance*)	\$4,533.75	License: Lab based
Public Health Information Link (PHIL)		
Public Health Information Link*	\$36,270.00	License: Server license enabling up to 10 lab connections
ELR Gateway Kit		
Total ELR Gateway Kit License*	\$31,736.25	License: Lab based
Atlas Connect (AC) (Single instance for 1 lab)	Inc	
Atlas Interface Engine (AIE) (includes 1 Interface for 1 lab)	Inc	
miniPHIL	Inc	
LOINC/SNOMED encoding of Test Catalog reportable incidents	Inc	
Atlas Interface Engine (AIE) (transforms HL7 message which must have fully populated ELR data to an appropriate HL7 compliant message)		
Custom Interface (Interface transformation not in existing library)	\$18,135.00	License: Lab based
Existing Interface (transformation of an existing library)	\$13,601.25	License: Lab based
*Will incur a maintenance fee		

<i>SIN 132-34 Software Maintenance</i>	Proposed GSA Price
Monthly Software Maintenance-Atlas Public Health Information Network Suite Central Server (per each server license)	\$785.01
WebvCMR	
Monthly Software Maintenance- WebvCMR User (per license Packet)	\$256.91
Monthly Software Maintenance- WebvCMR Physician (per license Packet)	\$151.13
Monthly Software Maintenance- WebvCMR Manual Lab Reporting (per license Packet)	\$151.13
Monthly Software Maintenance- WebvCMR Mobile user license (per license Packet)	\$159.52

Monthly Software Maintenance- WebvCMR Animal Report License (per license Packet)	\$151.13
NCM	
Monthly Software Maintenance- NCM User license (per license Packet)	\$256.91
Monthly Software Maintenance- NCM Mobile user license (per license Packet)	\$159.52
Monthly Software Maintenance- ARNOLD (per server license)	\$528.93
CD Key	
Monthly Software Maintenance- CD Key Application License (per application instance)	\$680.06
Monthly Software Maintenance-CD Key Enterprise License (per Enterprise License)	\$1,570.02
Atlas Connect (AC)	
Monthly Software Maintenance- Atlas Connect Enterprise License (per Enterprise License)	\$713.64
Monthly Software Maintenance-Atlas Connect Server License (per server license)	\$226.69
Monthly Software Maintenance- Atlas Connect Single Instance (per instance)	\$75.56
Public Health Information Link (PHIL)	
Monthly Software Maintenance- PHIL Server License (per server license)	\$604.50
ELR Gateway Kit	
Monthly Software Maintenance: Total ELR Gateway Kit License	\$528.93
Atlas Connect (AC) (Single instance for 1 lab)	Inc
Atlas Interface Engine (AIE) (includes 1 Interface for 1 lab)	Inc
miniPHIL	Inc
LOINC/SNOMED encoding of Test Catalog reportable incidents	Inc
Atlas Interface Engine (AIE) (transforms HL7 message which must have fully populated ELR data to an appropriate HL7 compliant message)	
Monthly Software Maintenance: Custom Interface (Interface transformation not in existing library)	\$302.25
Monthly Software Maintenance: Existing Interface (transformation of an existing library)	\$226.69

132-50 Training Courses	Proposed GSA Price
WebvCMR End User & System Administrator (2 days)	\$13,601.25
NCM End User & System Administrator (2 days)	\$13,601.25
PHIL End User & System Administrator (2 days)	\$13,601.25
WebvCMR Train-the-trainer (1 day)	\$4,533.75
NCM Train-the-trainer (1 day)	\$4,533.75
PHIL Train-the-trainer (1 day)	\$4,533.75
WebvCMR Advance Query Training (1 day)	\$7,254.00

Blanket Purchase Agreements (BPAs).

The following is a suggested Blanket Purchase Agreement (BPA) format.

BEST VALUE
BLANKET PURCHASE AGREEMENT
FEDERAL SUPPLY SCHEDULE

(Insert Customer Name)

In the spirit of the Federal Acquisition Streamlining Act (ordering activity) and (Contractor) enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Services Administration (GSA) Federal Supply Schedule Contract(s) _____.

Federal Supply Schedule contract BPAs eliminate contracting and open market costs such as: search for sources; the development of technical documents, solicitations and the evaluation of offers. Teaming Arrangements are permitted with Federal Supply Schedule Contractors in accordance with Federal Acquisition Regulation (FAR) 9.6.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the ordering activity that works better and costs less.

Signatures

Ordering Activity Date

Contractor Date

BPA NUMBER _____

(CUSTOMER NAME)
BLANKET PURCHASE AGREEMENT

Pursuant to GSA Federal Supply Schedule Contract Number(s) _____, Blanket Purchase Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH (ordering activity):

- (1) The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:

MODEL NUMBER/PART NUMBER	*SPECIAL BPA DISCOUNT/PRICE
_____	_____
_____	_____
_____	_____

- (2) Delivery:

DESTINATION	DELIVERY SCHEDULES / DATES
_____	_____
_____	_____
_____	_____

- (3) The ordering activity estimates, but does not guarantee, that the volume of purchases through this agreement will be _____.

- (4) This BPA does not obligate any funds.

- (5) This BPA expires on _____ or at the end of the contract period, whichever is earlier.

- (6) The following office(s) is hereby authorized to place orders under this BPA:

OFFICE	POINT OF CONTACT
_____	_____
_____	_____
_____	_____

- (7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.

- (8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;
- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;

(g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and

(h) Date of Shipment.

(9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.

(10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence

Contractor Team Arrangements.

BASIC GUIDELINES FOR USING “CONTRACTOR TEAM ARRANGEMENTS”

Federal Supply Schedule Contractors may use “Contractor Team Arrangements” (see FAR 9.6) to provide solutions when responding to a ordering activity requirements.

These Team Arrangements can be included under a Blanket Purchase Agreement (BPA). BPAs are permitted under all Federal Supply Schedule contracts.

Orders under a Team Arrangement are subject to terms and conditions of the Federal Supply Schedule Contract.

Participation in a Team Arrangement is limited to Federal Supply Schedule Contractors.

Customers should refer to FAR 9.6 for specific details on Team Arrangements.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customers needs, or -
- Federal Supply Schedule Contractors may individually submit a Schedules “Team Solution” to meet the customer’s requirement.
- Customers make a best value selection

EXHIBIT D

DESCRIPTION OF SYSTEM SOFTWARE

Exhibit D (Description of System Software), together with its Attachments, is attached to County Agreement No. _____ dated _____, 2011 (together with all Exhibits and Attachments, the "Agreement"), by and between the County of Los Angeles, for its Department of Public Health ("County"), and Atlas Database Software Corp. d/b/a Atlas Development Corporation ("Contractor"). Capitalized terms used in this Exhibit D without definition have the meanings given to such terms in the Base Agreement.

This Exhibit D, together with its Attachments, as supplemented and amended as provided for in the Statement of Work and/or otherwise in the Agreement as Work, provides a general description of the System Software. Attachment D.1 (Web vCMR 8 Series Summary of Functions) to this Exhibit D describes generally the functionality of the vCMR Software. Attachment D.2 (System Definitions) to this Exhibit D provides a chart of the System definitions.

GENERAL DESCRIPTION:

The System Software is a secure web-enabled electronic reporting system for communicable diseases, the core functionality of which includes the ability to:

- Capture disease reports and lab results;
- Support basic workflow of evaluating cases and outbreaks and assigning them to the appropriate discipline for follow-up;
- Record outcomes of case investigations; and
- Provide reporting for epidemiologic analysis, State reporting, and Federal (National Electronic Disease Surveillance System) reporting.

SYSTEM SOFTWARE:

CORE APPLICATIONS:

vCMR SOFTWARE:

- **COMMUNITY REPORTING MODULE – WebvCMR Software:** WebvCMR Software is a web-based application designed to gather Confidential Morbidity Report (CMR) information directly from providers. It provides a web-based alternate method for community reporters (e.g., physicians, infection control practitioners in private hospitals, etc.) to submit reports of communicable diseases. It additionally includes a functionality that requires the submitter to have only a username and password that such person can request in an online function protected by standard passkey, where no digital certificate is needed.
- **MANUAL LAB REPORTING:** Manual Lab is a web-based application created after some small laboratories with a low volume of reportable results expressed a desire to enter results of tests immediately through the interface of WebvCMR

Software. It allows the results to be generated in an HL7 file that can be sent to the proper channels for reporting purposes.

- **FOODBORNE ILLNESS WEB PAGE (Web FBI):** Web FBI is an enhancement of the Foodborne Illness Module in vCMR Software. The Web FBI report page allows the public to submit a food poisoning complaint that will auto-populate the foodborne illness module in vCMR.
- **EXTERNAL LAB VIEWER:** External Lab Viewer is a web-based application that enables external laboratories participating in the ELR to view HL7 messages submitted by their laboratory. The portal displays what has been sent to the County in either HL7 or graphic format and allows searching reports by date range, file name, accession number, or patient name.

ELECTRONIC LABORATORY REPORTING (ELR): The ELR provides software and connectivity to verify, process, and transfer lab results that are reported from laboratories through their electronic laboratory information system (e.g., LIS). ELR is accessible within the vCMR Software. Data arrives and is held at the staging area in vCMR Software. Identified as Contractor Software under the Development Agreements.

ARNOLD: ARNOLD stands for Automated Rapid Notification and On Line Delivery system. It functions as real-time alerting system that uses email, pagers, or wireless devices to notify its users when a preset situation has occurred. The ARNOLD alert system can be set up based upon many differing parameters from public health priorities to clinical events. The ARNOLD system can even be used to recognize potential bioterrorism events. For instance, an ARNOLD alert could be set up to notify the health department if a laboratory test for anthrax was requested by a local physician or hospital. Identified as Contractor Software under the Development Agreements.

ATLASCONNECT: The AtlasConnect software provides automatic and secure transfer of files to and from a server, without requiring a VPN connection. AtlasConnect uses the familiar http port, often already opened for web browsing, so set up becomes a simple procedure and not a complicated inter departmental project taxing multiple resources over a period of time. Identified as Contractor Software under the Development Agreements.

ATLAS CD KEY: WebvCMR can fully incorporate X.509 digital certificates or secure token technology to provide multiple factors of authentication. Specifically, Contractor provides X.509 authentication for its clients with CD-Key. It facilitates the issuance and administration of standard X.509 digital certificates for each authorized web user and allows for local management by a centralized, off-network computer that burns the encrypted certificate file and management software on either a credit card sized compact disc or a USB memory stick. Using CD-Key, the user can efficiently administer remote access, issuing new certificates quickly and cost-effectively to hundreds or even thousands of users. Expiration can be set to occur within any time period from one day to months or years, and authorization for a particular user can be withdrawn at any time. Additionally all transmissions are secured and encrypted with SSL version 3 providing a secure 128-bit encrypted browser session. Identified as Contractor Software under the Development Agreements.

Mini-PHIL: Mini-PHIL provides a subset of the functionality found in P.H.I.L. such as transformation, translation and communications services operating at lab site to facilitate local filtering of reportable conditions to the public health department. Identified as Contractor Software under the Development Agreements.

P.H.I.L.: P.H.I.L. acts as a real-time electronic interface and data repository for the storage of test results. It also performs many tasks involved with the reporting process while seamlessly integrating with local health department's existing disease surveillance systems. In order to determine which results are necessary for reporting, P.H.I.L. utilizes a Rules-based Filtering Engine, which selects the lab results that evidence reportable disease incidents. This identifies which results are positive or abnormal and removes those that are not in these reportable categories. P.H.I.L. then manages these exceptions. Upon receipt of ELR transmission, P.H.I.L. utilizes the Atlas Interface Engine, which performs address standardization and data translation to standard coding formats for transmission. This translation changes the laboratory message from local message codes into standardized medical vocabulary codes for consistency. Then P.H.I.L. utilizes a Secure Communications Shuttle to transmit test results to the appropriate local health authority using secured transmission techniques. In addition, P.H.I.L. can keep track of all of the messages sent and be used to audit prior messaging. Identified as Contractor Software under the Development Agreements.

THIRD PARTY SOFTWARE: Below are the Third Party Software products included in the System Software as of the Effective Date. Contractor may substitute one or more products having at least the functionality of the Third Party Software product being replaced and licensed on at least the same terms and conditions as the License and at no additional cost to County. The substituted product(s) shall automatically be deemed to be System Software for all purposes under the Agreement, including but not limited to, warranties, Maintenance Services, Support Services and Hosting Services.

INTERSYSTEMS CACHE: A post-relational database from InterSystems that allows the user to create Web and client/server applications. Cache provides a choice of development tools, programming languages, and methods of data access. Cache benefits transaction processing applications by providing outstanding performance, massive scalability, real-time data analytics, and robust reliability.

MELISSA DATA: (GeoCoder-address standardization): Melissa data provides solutions to cleanse and update address information. Updated regularly, Melissa data ensures that address information entered in WebvCMR is accurate while determining the geographical coordinates to locate the address.

CRYSTAL REPORTS: Crystal Reports is an application used to design and generate reports from a wide range of data sources. Crystal Reports allows the user to create their own reports for use as ongoing analysis or ad hoc reporting.

DUNDAS MAPS: Dundas Maps allows an application to use existing data to enhance reports by displaying the data using information that includes maps. Dundas Maps converts the location data to graphically display the incidents giving the user additional information in their effort to protect the public.

SPELLCHECK: Spellcheck is an application within vCMR Software that checks for spelling errors. Spellcheck ensures that the data entered is free of spelling errors by correcting any spelling errors as the user is typing.

ADDITIONAL PRODUCTS: If acquired as Additional Work in accordance with the Agreement.

***NCM – IF COUNTY ELECTS TO USE IN THE FUTURE:** Nurse Case Management provides an interface for nurses to check in patients, assign patients to case management, track the significant events of cases, and obtain detailed reports on the results. The user interface was designed to facilitate the collection of information across multiple nursing programs. Within NCM, defined protocols direct users to collect required information, fill out forms, and follow a series of set procedures for program areas such as STD, and TB. Authorized administrators can edit existing protocols and develop new ones as the need arises.



ATTACHMENT D.1

Atlas Development Corporation

WebvCMR 8 Series

Summary of Functions

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INTRODUCTION

Atlas Public Health products provide a wide range of functions for nurses and public health practitioners. The Atlas WebvCMR system has been in use by Los Angeles County since 1999. This document is intended to outline and summarize the major functions provided within the WebvCMR 8 series used by Los Angeles County.

PURPOSE

The purpose of this document is to describe many of the functions and abilities of the 8 series WebvCMR system.

SCOPE

This document will act as an overview for understanding the functionality of the WebvCMR system with scope limited to the 8 Series of the product. This document does not cover functionality that is present in later versions of the WebvCMR product.

WEBVCMR

The Web-based Visual Confidential Morbidity Report (WebvCMR) is an Atlas Public Health system that enables the user to enter, store and analyze all of the relevant information needed for investigating disease incidents, foodborne illnesses, and outbreaks. WebvCMR is an all-encompassing disease reporting system which enables the user to conduct case management in a streamlined manner.

PERSON

Upon entry into the WebvCMR system the public health practitioner is first shown the person tab of the system. This Person tab represents the Master Person Index within the system allowing the user to find any patient from this screen. This person section is useful for finding a particular patient with their basic demographics and any disease incidents associated with them. On this screen the user can search by the patient name, social security number, date of birth, zip code, create date, and medical record number. This makes finding a particular patient or case much easier especially if the public health practitioner only has a small amount of information to search with, such as a medical record number.

The user can also search with partial amounts of each of these search criteria. So if the user is unsure of the complete spelling of a name they can enter as many letters or numbers as they are sure of and still get the desired results. Once a particular person is

selected on the person page their associated disease incidents are shown at the bottom of the page in the second grid. The user can select the particular diagnosis of interest and quickly transfer into the disease incident record for that patient.

PATIENT MERGE

WebvCMR now has the ability to allow users to select patients on the Person Search screen that are possible duplicates, mark them as possible duplicates and then have an administrator merge those patients into one patient record.

DISEASE INCIDENT

The disease incident records of the WebvCMR system can be entered through the person tab or by selecting the disease incident tab from the main page. Within the disease incident tab the user can search for the particular incident they are looking for by identification number, confidential morbidity report, onset date or disease. This search function is helpful for locating a particular incident but it is also beneficial for selecting all of the cases of a particular disease.

Once the public health practitioner has selected the desired case, the patient tab is displayed which contains extensive demographics on the patient. This section contains many of the factors necessary for epidemiological analyses such as ethnicity, race, occupation, marital status and gender of sexual partners.

Under the supplemental tab within the disease incident record there are configurable selections available to document the risk factors and possible exposure types related to the disease incident. These factors can also change based upon the disease being investigated. For instance, if the disease that is being investigated is tuberculosis, a tuberculosis specific supplemental tab appears (replacing the general

supplemental tab) after tuberculosis has been selected from the disease dropdown. Having the risk factors and exposure types for specific diseases readily available can aid in epidemiological analysis of the entered disease incidents and recognition of possible outbreaks.

Under the case investigation tab important case information can be entered, such as district the case is within, who the investigator is, and who the reporting source is. Outbreak and foodborne illness identification numbers are also entered on this page as well as important case dates and statuses. This case investigation tab encapsulates all of the information necessary for investigation of the primary disease incident. Any additional pertinent information that may not have a predefined field for entry can be entered in the large free form notes box as well.

ADDRESS STANDARDIZATION

Within the patient demographics section of WebvCMR, the system has the ability to standardize any address entered automatically as data is being submitted. This means that even if the street name is misspelled upon data entry the system will check the address, verify the correct spelling, and correct the error. Additionally for ease of use, the user can just enter the zip code for an address and the WebvCMR system will automatically populate the city and state. Having the correct address of a case is extremely important in public health since the patient may need to be located for follow-up purposes.

TASK LIST

The task list allows an administrator to create a list of certain items or questions that need to be checked off or answered. The user can then go to the task list to verify that all of the necessary forms are filled out or that all relevant information has been obtained. For example, it may be important in an outbreak situation for the patient to

be contacted by a public health investigator, in this situation the task list could have the question “Contacted Patient” that would be checked off after this task was completed. The task list can have many of these questions and act as a reminder as well as a task verification system.

ELECTRONIC FILING CABINET

The Electronic Filing Cabinet (EFC) is available in each Disease Incident Record through an icon at the top of the record that looks like a filing cabinet. Within the EFC the user can add scanned paper documentation, various files, and images that pertain to the investigation for that individual.

SCANNING

The Electronic Filing Cabinet (EFC) allows electronic forms of paper documents to be stored and reviewed as needed. Whenever a paper document is received for a patient’s file, that document can be scanned and attached to the person’s electronic file within the Electronic Filing Cabinet in the Disease Incident record.

LAB REPORT

Each time a Disease Incident is created through an electronically reported laboratory result a visual representation of that lab result is created and attached automatically to the EFC. This visual representation includes all of the relevant demographics for the patient, the Laboratory information including location, the ordering Physician information, the Ordering Facility Name, Address and Phone Number, the test ordered and the result with any notes sent in the HL7 message.

ATTACH FILES IN ANY FORMAT

In addition to image files, any file type that is commonly recognized by Microsoft Windows, such as Excel, Word, or PDF, can now be attached in the Electronic Filing Cabinet.

IMAGE BROWSING ENHANCEMENTS

For reviewing images that have been already attached in the EFC, the files now have thumbnail icons. These files can also be renamed in a pop-up window, if desired. Additionally, when using the Print Preview option, it is now possible to select multiple files for printing, across entire patient or disease incident.

LETTER REPOSITORY

The letter repository stores prefabricated urgency letters created by an administrator that pop-up when there is some missing information in a patient's file. When the demographic information is missing an address or phone number, the system will give the user a pop-up message prompting them that an urgency letter should be sent to the provider for the missing information. Then the urgency letter is available in the letter repository for printing and mailing or faxing to the provider. In the future, interfaces with providers could allow transmission of these types of letters electronically from the WebvCMR system.

USER DEFINED FORMS

User Defined Forms are a way for the user of the WebvCMR system to customize information for their own needs. The user can build most of the additional forms needed for specific illnesses by selecting prefabricated components and by adding new questions to create an entirely functional new form for entering information. The

custom questions can be in free text, yes or no, numeric, date, time, or multiple choice formats. The pre-defined sections available are those most commonly used for epidemiological investigations such as demographics, contacts, exposures, food history etc. These user defined forms give the WebvCMR program user the flexibility to change the system to meet their unique needs.

These User Defined Forms are created by using three User Defined Data Dictionaries. An administrator or any person granted the appropriate security access can define new fields in the User Defined Fields dictionary, and then combine those Fields into user defined sections in the User Defined Section Dictionary. Then once the sections are completed the user can combine the user defined sections into User Defined Forms in the User Defined Form Dictionary. These forms are accessed through the Electronic Filing Cabinet (EFC) within any Disease Incident record. Unlimited User Defined Forms can be filled in and attached in the EFC associated with each incident record.

BUSINESS RULES

Within the User Defined Field and Form dictionaries that are used to create User Defined Forms, the capacity to add custom business rules coded in JavaScript has been added. Filed level business rules are added in a free text box that is associated with the specific user defined field. These JavaScript business rules apply to the specific field and can be used to change the look of the field or label. Form level business rules may be defined in the User Defined Form Dictionary either as rules that execute when loading the form or as rules that execute when the form is saved. For testing of defined JavaScript business rules, a new 'Test Rules' button has been added to the User Defined Form Dictionary that allows previewing UDFs with any defined JavaScript load and/or save business rules.

VERSIONING

The User-defined forms functionality has been enhanced to allow cloning copies of existing user-defined forms or sections by clicking one button on the dictionary. Once this is clicked the system replicates the selected form or section creating a new internal id and allowing the section or form to be renamed. This new functionality allows users with access to the UDF dictionaries to reuse user defined sections and forms without having to completely redefine them manually. An additional locking selection has also been added to allow users to mark sections or Forms that they do not want changed by others. If other want to use this locked section or form they simply use the version button to duplicate the desired data and continue working.

DISEASE SPECIFIC SUPPLEMENTAL TABS

Los Angeles County has added some additional supplemental tabs for the capture of disease specific data elements. These tabs replace the standard Supplemental tab within the Disease Incident record. On all of these Supplemental tabs a new Specimen Information multiple-record add list has been added which includes fields for Specimen Collected Date, Received Date, Type, Result, and Notes.

STDs

There are disease specific separate supplemental tabs for all of the following diseases: Chlamydia, Gonorrhea, Syphilis, Congenital Syphilis and LGV

TUBERCULOSIS

There is a tuberculosis specific supplemental tab that also provides access to the Hospital Discharge Plan form. Additional fields for recording tuberculosis blood tests

have been added to this supplemental tab including; Blood Assay Date, Blood Assay Result and NAA (PCR, MTD) dropdowns.

ENTERIC ILLNESSES

There are disease specific separate supplemental tabs for the following enteric illnesses: Campylobacteriosis, Salmonellosis, and Shigellosis

DISEASE/DISTRICT VERIFICATION POP-UP

In order to add a little extra verification that the correct disease and district have been selected for each Disease Incident record a verification pop-up was added for when a user chooses or changes either the Disease or the District of an Incident. This is intended as an additional incentive to verify that the correct information has been selected before submitting the record.

FOODBORNE ILLNESS

The foodborne illness tab of the WebvCMR system is used to document, investigate, and follow-up on foodborne illness cases and/or outbreaks. This section contains general demographic information along with specific information on when the suspected food was eaten, when the illness began, the duration of illness, the food source, the symptoms and the suspected foods. To aid in outbreak investigation there are also places for entering how many people ate the suspected meal and how many of that group actually became sick. Multiple victims can be entered and connected together within the system for ease of epidemiological investigation. In case of an intentional contamination of a food product there is also a place to enter if any other departments were notified.

PUBLIC FOODBORNE ILLNESS REPORTS

A Public Foodborne Illness report page has been created that the public can access

from the LAC website. Upon submission from the website the Foodborne Illness tab is updated with the information in a new FBI record.

OUTBREAK

The outbreak section of the WebvCMR system can be entered by selecting the tab from the person page or by previewing from within an incident. Once in the outbreak tab the user can search for a specific outbreak by outbreak number, disease, onset date, identification number, and create date. This search feature is very advantageous for public health practitioners who are assigned to particular disease outbreaks. Using this feature gives the user quick access to all of the cases relevant to them.

Once an outbreak is selected the page shows the outbreak identification number, how many people are in the outbreak, the outbreak number, the disease, location, district and date of onset. This page also shows the type of outbreak and what the statuses of the outbreak are. To aid in outbreak investigation there is a visible list of the cases linked to the outbreak at the bottom of the page. This list of records allows quick review of all of the individuals related to that outbreak and to one another without time consuming searches.

ELR

The Electronic Laboratory Reporting (ELR) system allows laboratory results from private and public health laboratories to be electronically reported to local public health authorities through a lab interface. The lab interface is secured so that sensitive information about patients cannot be intercepted by unauthorized individuals. The ELR is set up to transmit only positive or abnormal lab results of interest to the health authority for required reporting.

When transmitting lab results directly into the WebvCMR, the ELR first matches existing patients to incoming messages by comparing social security numbers. If the

social security number cannot be located for comparison then the ELR compares the incoming results last name, first initial, and date of birth. Once a match is found within the existing patients, the new laboratory information with the match is placed into a queue where an administrator can decide whether to add the new information to the current patient's file or to create a new disease incident for that patient. However, if no match is found for the social security number or the name and date of birth information from the message then the system creates a new disease incident within the WebvCMR system based solely upon the lab message information. This ELR system enables expedited transfer of lab information and automated creation of disease incidents which lessens the number of manual procedures necessary for laboratory reporting.

LIP CROSS REFERENCE

The LIP Cross Reference is an administrative dictionary that allows the administrator to provide set up and cross referencing of which ELR Lab Result data codes create which types of Disease Incidents in the system. For example if a certain HL7 message is submitted into the system with a LOINC code of 14567-2 the system uses the LIP Cross Reference table to determine that this code is linked to a positive diagnoses value of Shigellosis. This allows the system to create the Disease Incident with the data elements specific to a Shigellosis investigation.

REPORTING NON-POSITIVE LAB RESULTS

The LIP Cross Reference has been enhanced to associate incoming Lab Report ELR data with either positive or non-positive diagnoses. This allows the system to recognize and receive Lab Reports for non-positive results that may be important to closing out a disease investigation such as three consecutive negative smears for a known tuberculosis patient.

LABORATORY REPORT PATIENT MATCHING BY MRN

In addition to the existing matching rules, now Los Angeles County may select which MRN rule to apply by specific laboratory. The matching rule for MRN can be by MRN Only or a combination of MRN + Full Last Name + First Initial + Gender.

MESSAGE MONITOR

The Message Monitor is an administrative function that allows an administrator to see the actual incoming HL7 message that was accepted into the system and used to create a Disease Incident record.

ADDITIONAL FUNCTIONS

There are many additional functions within the WebvCMR system that may not be readily apparent to the casual user. Many of these tools are available within the disease incident section of the program.

AUDIT

The audit function is an administrator function that allows any changes made to a record to be tracked by who made them, when they were made, what the prior information was and what the new information is. The audit function shows every transaction and keeps track of what was changed so that any errors can be corrected. This auditing functionality applies to Incident and Outbreak records, records in the staging area and files in the EFC.

DISTRICT REVIEW

The District Review portion of WebvCMR allows many different types of searches to be performed. This search function enables the user to find exactly the case or cases they are looking for in the shortest timeframe possible. The user can choose to search by District or Service Planning Area, by Disease or Disease grouping, by type either

Incident, Outbreak or Both, and by Status or Investigator.

STAGING AREA

The staging area is used to review ELR or Community Module reported incidents before they are imported into the database to verify their accuracy and to decrease the duplication of reports.

STAGING AREA SEARCH

The Staging Area has been enhanced to include the ability to search records by Date Range, HL7 File Name, Laboratory, Patient Name, Accession Number, Case ID, Diagnosis, District, and Resulted Test.

SECURITY

In WebvCMR security access is set up by three parameters, User Group, District and Disease Group. Each user in the system has all of their security access defined by these three set up parameters. The User Group provides the ability to grant access to all of the administrative functions, dictionaries and reports in the system. This access can be granted as read only or full edit capability. Disease groups are defined in the system in the Disease Group Dictionary. Unlimited disease groupings can be created limiting a user to only see that subset of diseases that are allocated within their assigned disease group. Additionally, each user can be assigned to a specific District as the final limiting parameter. In combination each user will only be able to access or view the subset of diseases within their assigned district and only see menu items allowed for their user group assignment. These security access limitations are also applied to the Search screens, District Review screen and the Ranged Reports and Exports. If a user does not have access to some information in the system they are not able to see that information and are not aware that it is missing.

CONTROLLED NOTES ENTRY

Throughout the WebvCMR system there are open notes sections where the public health practitioner can enter any additional necessary information that is not prompted by the system. These notes are date, time, and user stamped and once the information is added it cannot be removed or edited. This maintains the integrity of the notes and allows any practitioner to view all of the prior information entered on a case.

DATE AUTO-FORMATTING

All of the date fields throughout the system have been enhanced so that a user may enter only the numbers without slashes or dashes and have the date automatically format correctly.

SPELL CHECKING

Spell Checking has been added to automatically spell check all entries in all system dictionaries and notes text boxes. This spell checking can be set up for all users, or for a subset of users who select it to be on, or it can be manually initiated by clicking on the spell check icon.

INSTANT EXPORT

This function allows the user to export the actual data in the database based upon a particular ranged report or any section within the program. The user can select which data fields should be exported and the data can be exported in a text file, Microsoft Excel or Microsoft Access format.

ELECTRONIC STATE TRANSMISSION

The WebvCMR system is equipped to upload reports to the State of California electronically. In order to send a report to the state, the WebvCMR user selects the specific week of information to be sent and the WebvCMR system generates the file.

The file contains the compilation of all of the closed and confirmed cases reported and the specific data elements of interest to the state. Then this file is transmitted to the state. Each file can be deciphered by the date submitted in the file name.

CMR BATCH UPLOAD

Now in WebvCMR Case reports can be automatically uploaded into the live system through a batch upload process using a tab delimited text file. This allows much quicker population of disease incident records in the case of an outbreak or situation where a lot of incidents would have to be entered in a short amount of time.

REPORTS

The WebvCMR system provides many different types of reports for analysis of disease incidents, foodborne illnesses, and outbreaks. Most of these reports can be created under ranged reports and can be exported in Rich Text, Microsoft Word, and Microsoft Excel formats.

AUTO INSERTED LAB REPORT

This analysis creates a list of all of the cases with auto-inserted lab reports within a certain date range by disease type. The date range can be based upon create date, onset date, closed date, or reported date.

CUMULATIVE FOODBORNE ILLNESS REPORT

This analysis creates a list of all the foodborne illness cases within a certain date range by process status and location. It also shows the diagnosis, the number of people that became ill and the place the food was eaten. The date range can be based upon create date, onset date, closed date, or reported date.

CUMULATIVE DISEASE REPORT

This analysis creates a cumulative report of cases of a particular disease or grouping within a certain date range by process status, location, district and resolution status. The date range can be based upon create date, onset date, closed date, or reported date.

OUTBREAKS BY DISEASE REPORT

This analysis creates a cumulative report of outbreaks of a particular disease or grouping within a certain date range by process status, location, district and resolution status. The date range can be based upon create date, onset date, closed date, or reported date.

SUPPRESSED DUPLICATE LAB REPORT

This analysis creates a cumulative report of all of the duplicate lab results that were suppressed by the system within a certain date range by location or all of the locations combined. The date range can be based upon create date, onset date, closed date, or reported date.

WEEKLY PLACE OF REPORT

This analysis creates a weekly morbidity report by health jurisdiction and week number. This report has four sections, a report of numbers of cases of reportable diseases, a report of the cases with individual confidential morbidity reports required, a report of how many individual case history reports are required, and a report of outbreaks, other reportable diseases and unusual diseases. This report can serve as an overview of the overall disease morbidity for the prior week.

EFC IMAGE EXPORT

A new export has been created that allows exporting and then browsing a collection of all images attached to Disease Incidents by Disease Type, Location, Date Range, District,

and Status.

DE-IDENTIFIED REPORTS

The De-identified Report provides de-identified data in a pivot table that allows viewing and manipulation of demographics and date data elements. This report can be used by both internal public health staff and reporting sources.

USER DEFINED FORMS (UDF) EXPORT

UDF data can now be exported through the Ranged Reports.

EXPORT ENTERIC SUPPLEMENTAL TAB DATA

An export was created for the enteric illness supplemental tabs: Campylobacteriosis, Salmonellosis, and Shigellosis.

EXPORT STD SUPPLEMENTAL TAB DATA

An export was created for the STD illness supplemental tabs: Chlamydia, Gonorrhea, Adult Syphilis, and Congenital Syphilis.

GEOGRAPHIC MAPPING

Mapping software by Dundas Map has been integrated with WebvCMR and a new Geographic Mapping Report has been added that allows plotting locations of Incidents or creating density maps for Incidents and Outbreak. Output utilizes ESRI maps of Districts or SPAs, and then generated maps that have controls for zooming and printing.

EPITOOLS

The following are analysis tools in WebvCMR to help in epidemiological investigations.

THRESHOLD ANALYSIS

Early Event Detection in the APHIN suite is provided by the threshold analysis functionality. This function allows the user to set up queries in the system based upon significance levels, cases counts or a percentage of cases above an estimated baseline of disease that is calculated by a user defined number of historical years worth of data. When the baseline, or threshold level is exceeded an ARNOLD alert is sent to the creator of the query or anyone who has chosen to receive an alert.

REAL TIME GRAPHS

This function allows users to see real time graphs and tables to show disease counts and incidence rates based upon geographical boundaries, age groups, ethnicity, and age stratification.

EPICURVE

This function allows the user to view the case counts by week of the current year compared to the historical average of cases from a selected number of historical years.

COMMUNITY REPORTING MODULE

The Community Reporting Module allows physicians and Infection Control Practitioners to log into their own web portal and enter Disease Incident reports. This functionality decreases manual entry for the Los Angeles Public Health group and allows Community Reporters to meet their reporting obligations without faxing a paper report or calling the health department.

TUBERCULOSIS REPORTING

Both the Community Reporting Module and the Smart Client have been updated to accept reports of Tuberculosis, including the initial report, the TB Supplemental Page, as

well as the Hospital Discharge Plan.

MANUAL LAB REPORTING MODULE

The Manual Lab Reporting module allows smaller laboratories that do not report positive lab results often to use a simple web portal to enter their positive lab reports manually. These reports are then treated the same as Electronically reported lab results by generating an HL7 message from the data entered and creating a new disease incident record within WebvCMR.

EXTERNAL LAB VIEWER

A new type of web user has been created that enables external laboratory employees to login and view the HL7 messages submitted for their lab. The new portal displays what has been sent to the county in either HL7 or graphic format and allows searching reports by Date Range, File Name, Accession number, or Patient Name.

MANUAL LAB SPECIMEN INFORMATION

The Manual Lab Report entry screen was enhanced to include Specimen Received Date, Resulted Date, Result, and Specimen Notes fields. These new Specimen fields were also added to the Disease Incident Export.

ANIMAL REPORT MODULE

The Animal Report module allows entry of records within the system on animals with diseases. An additional Animal tab was added to the main Search page to allow searching for and accessing the animal records. The Animal Record consists of three predefined tabs Identification, Veterinary and Vector. Much of the data elements on these tabs were originally based on the rabies report paper form for Los Angeles County with a few additions to allow for vector control and field monitoring activities.

- System Administrators Functions (22): Includes adding and deleting system users, editing user information, resetting passwords, and creating user groups. User and User Group Management, and all other system management functions are located under the **System Admin** menu. Functions include:
 - Audit Review
 - Batch Upload; Configuration
 - Delete Patients
 - Disease Profile Subscription
 - Electronic Reporting
 - Fax Server
 - Imported Incidents
 - LIP Cross Reference
 - Reporting Volume
 - Message Monitor
 - Laboratory
 - Groupings
 - ARNOLD Grouping Messages
 - Disease ARNOLD Groupings
 - District ARNOLD Groupings
 - Merge Patients

- Outbreak Counters
- Override
 - Incident
 - Outbreak
- Population Data
- Security Disease Groupings
- Security District Groupings
- Select Required Fields
- Standardize Addresses
- State Transmission
 - Send
 - View State Transmission Batches
- Suspicious Activity Log
- Threshold Analysis
- Users
 - System Users
 - User Groups
 - Domain Users
- Web Users Control

- Web Configuration
- Web Users
- Workflow Trees
 - Branch
 - Trunks
- Dictionaries (30): Only a system administrator can modify the data in the Dictionaries. Dictionaries include:
 - Animal Report
 - Disease
 - Web Disease
 - Census Tract
 - County
 - Concern
 - Exposure Type
 - Food
 - Lab Specimen Type
 - Location
 - Location Type
 - LOINC

- Mask Record Log
 - Multiple Demographics
 - Investigator
 - District
 - Pesticide Illness Report
 - Report Source
 - SNOMED
 - SPA
 - Specimen Types
 - Status
 - Symptom
 - Signs and Symptoms
 - Task List
 - Treatment
 - Urgency
 - Urgency Letter
 - Quick Words
 - User Defined
- 8.3.4 ELR Enhancements:

- Auto Insert by Disease for Lab and Web
- Handling of subsequent Results that are Negative
- Add Local Organism Code to LIP Cross Reference Dictionary
- Staging Area and Imported Incident Enhancements
- LIP Add testing/org Combined Logic
- Duplicate Suppression
- Incident and patient Matching
- Observation Status handling
- Only create Single SAME Disease incident per MSH
- vCMR Icons:
 - AOD Call Log
 - Address History
 - Process Status History
 - Resolution Status History
 - Task
 - Filing Cabinet
 - Scan
 - Print Preview
 - Letter Repository

- Audit
- Ranged Reports – Exports:
 - Disease Incident Export
 - Outbreak Export
 - Foodborne Illness Export
 - Contact Tracing Export
 - Case Investigation Form Export
 - Pesticide Supplemental Data Export
 - DFR Export
- Additional vCMR Features:
 - System Message
 - AOD Call Log
 - Report Issues
 - Help Index - On-line User Guide and Reference Manual
 - Data Dictionary

ATTACHMENT D.2
SYSTEM DEFINITIONS

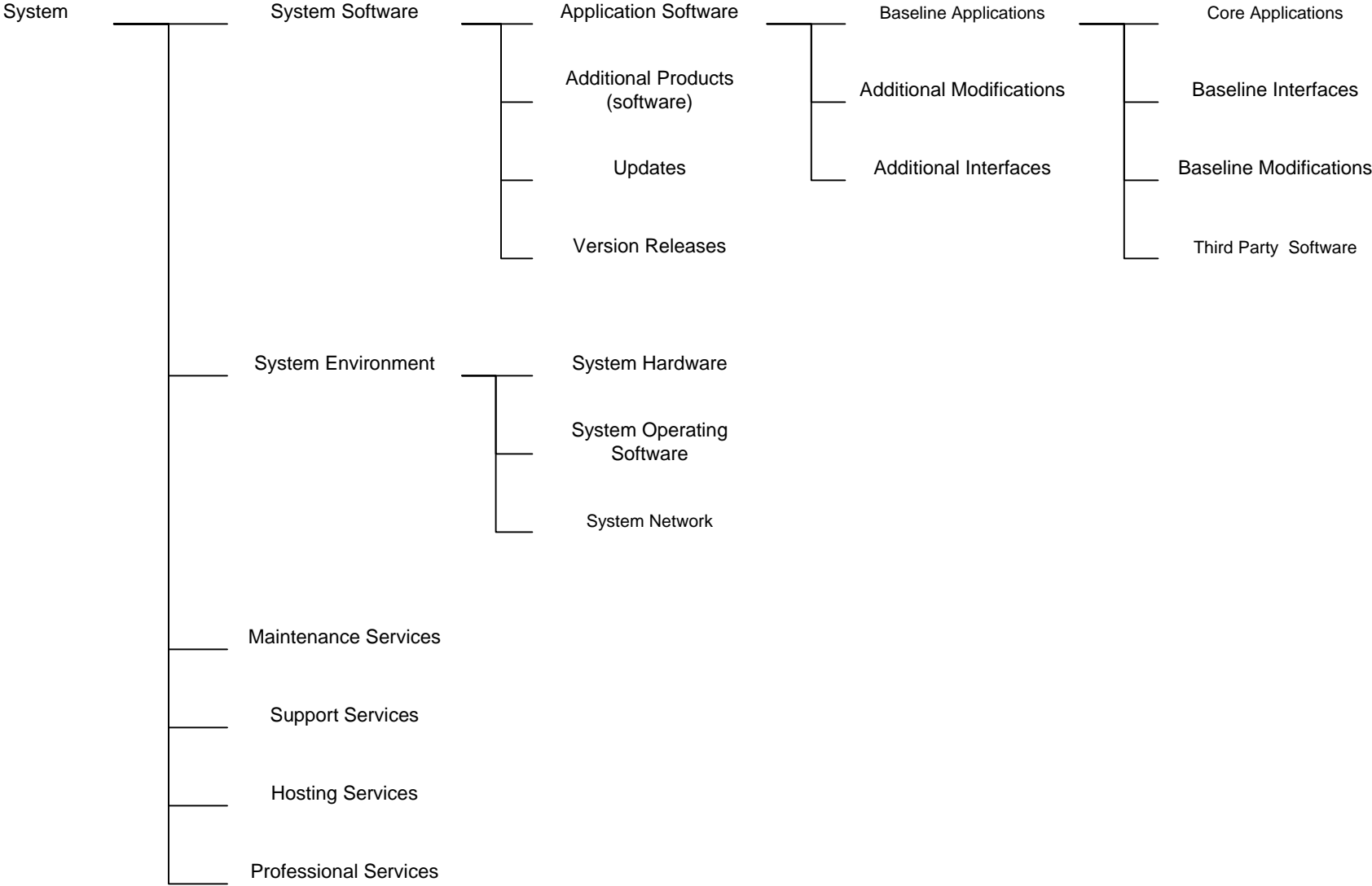


Exhibit E

Minimum System Requirements Atlas Public Health Information Network Hardware Requirements (WebvCMR 8.X/NCM 2.X) 1/25/2011

Synchronized Laptop (NCM Only)

- Intel Core 2 Duo @ 2.8 GHZ
- 4 GB ram (minimum RAM requirements)
- 32 GB 7200 RPM drive (Solid State could potentially provided better performance)
- Windows XP Professional (TBD: 32-BIT/64-BIT OS)

Browser Workstation

County Staff

- High speed internet connection
- Windows XP/Windows 7
- 512 MB RAM
- Internet Explorer 7 or 8
- Intel Pentium 4 2.8 GHz or equivalent
- 80 GB hard drive

Community Reporters

- High speed internet connection
- Windows XP/Windows 7
- 512 MB RAM
- Internet Explorer 6, 7 or 8
- AMD Sempron or Intel Celeron 1.6 GHz
- 80 GB hard drive

Notwithstanding anything to the contrary in Exhibit F (Service Level Requirements) or otherwise in the Agreement, with respect to the System Software as it exists prior to System Acceptance of the Upgraded System, Contractor's obligations to maintain System Software Compatibility with Windows® Vista® are as follows: Contractor shall use reasonable efforts under the circumstances to maintain System Software Compatibility and backward Compatibility with Windows® Vista® for a reasonable period of time. However, in no event shall Contractor be responsible to undertake extraordinary measures to maintain System Software Compatibility or backward Compatibility with Windows® Vista®. Additionally, Contractor shall not be liable for remedying any Deficiencies with respect to the System Software occurring on browser workstations using Windows® Vista®, to the extent that such Deficiencies are not able to be replicated on browser workstations using Windows XP and would be remedied installing Windows XP on the affected browser workstations.

EXHIBIT F
SERVICE LEVEL REQUIREMENTS

1. GENERAL

This Exhibit F (Service Level Requirements) and all Attachments hereto (collectively, "Exhibit F") sets forth the scope of, and Contractor's service level commitments regarding, the maintenance, support, hosting and monitoring of the System Software, under County Agreement No. _____ dated _____, 2011 (together with all Exhibits and Attachments, the "Agreement"), by and between the County of Los Angeles, for its Department of Public Health ("County"), and Atlas Database Software Corp. d/b/a Atlas Development Corporation ("Contractor"). Capitalized terms used in this Exhibit F without definition shall have the meanings given to such terms in the Base Agreement.

The following Attachments are attached to and form a part of this Exhibit F:

Attachment F.1 – Guide to Customer Support Services

Attachment F.2 – ELR (Electronic Lab Reporting) Maintenance and Support Guide

Attachment F.3 – Disaster Recovery Service Level Agreement

2. SCOPE OF SERVICES; DEFINITIONS

2.1 Contractor shall provide Maintenance Services, Support Services and Hosting Services as specified in this Exhibit F and otherwise in the Agreement. Contractor's provision of such services shall commence on the Effective Date and shall continue throughout the Term.

2.2 As used herein, the following terms have the following meanings:

1. **"Critical"** shall have the meaning set forth in Attachment F.1 (Guide to Customer Support Services).
2. **"Deficiency"** and **"Deficiencies"**, whether singular or plural, shall mean any of the following: any defect in design, development, implementation, materials, and/or workmanship; error(s); deviation(s) from applicable published industry standards and/or mutually agreed upon standards; and/or deviation(s) from any of the requirements or any County approved Deliverables or Specifications; and/or other problems, in the case of each of the foregoing, which result in the System, or any System component, not performing in compliance with the provisions of the Agreement, including but not limited to System Requirements and other Specifications, attributable to Contractor or the System or otherwise under Contractor's control. Notwithstanding the foregoing, Deficiencies shall not include any such defects, errors and/or deviations to the extent they are caused by County or other third parties that are beyond Contractor's reasonable control. Deficiency shall be specifically associated with a Severity Level as further defined in Attachment F.1 (Guide to Customer Support Services).
3. **"Deficiency Period"** shall have the meaning set forth in Section 4.8 of this Exhibit F.
4. **"Disaster"** shall mean a catastrophic event that results in significant or potentially significant System Downtime or disruption of the Production

Environment rendering the primary Production Environment incapable of being recovered within the timeframe set forth in Attachment F.1 (Guide to Customer Support Services) for Severity Level Critical.

5. **"Disaster Recovery Service Level Agreement"** shall mean the Disaster Recovery Service Level Agreement attached hereto as Attachment F.3, as the same may be amended and supplemented from time to time in accordance with the Statement of Work and/or this Exhibit F.
6. **"Disaster Recovery Services"** shall have the meaning set forth in Section 5.5 of this Exhibit F.
7. **"DPH Partners"** shall mean (a) Users of the System other than employees of DPH and (b) other persons and entities that interface with the System in the normal course of County business.
8. **"Final Resolution"** shall have the meaning set forth in Attachment F.1 (Guide to Customer Support Services).
9. **"Interim Solution"** shall have the meaning set forth in Attachment F.1 (Guide to Customer Support Services).
10. **"Response Time"** shall have the meaning set forth in Section 7.2 of this Exhibit F, which shall be separate and apart from the timeframes set forth in chart entitled "Severity Level Response/Resolution Tiers" in Attachment F.1 (Guide to Customer Support Services).
11. **"Service Request"** shall have the meaning set forth in Attachment F.1 (Guide to Customer Support Services).
12. **"Scheduled Downtime"** shall mean System Downtime that has been scheduled as described in Section 6 of this Exhibit F, including, but not limited to, preventive maintenance, updates, upgrades, scheduled reboots, restarts, etc.
13. **"System Availability"** shall mean, with respect to any particular calendar month, the percentage obtained by subtracting Un-Scheduled Downtime during such month from the Total Monthly Time for such month and thereafter dividing the difference so obtained by the Total Monthly Time, with the result multiplied by 100.
14. **"System Downtime"** shall mean any time the System is not performing in accordance with the System Requirements or other Specifications.
15. **"Total Monthly Time"** shall mean all minutes in the relevant calendar month, excluding Scheduled Downtime.
16. **"Un-Scheduled Downtime"** shall mean all minutes of System Downtime other than Scheduled Downtime, as determined in accordance with the applicable of Sections 4.7, 4.8, and/or 5.6 of this Exhibit F.

3. MAINTENANCE SERVICES

- 3.1 Contractor shall provide Maintenance Services for the System as described in this Section 3 and otherwise in this Exhibit F and the Agreement.
- 3.2 Contractor shall provide Updates and Version Releases to the System Software to keep current with Contractor's hosting technology standards, industry standards, Third Party Software upgrades, enhancements, updates, patches, bug fixes, etc., and as provided to Contractor's general customer base in accordance with this Exhibit F, as coordinated with County Project Manager.
- 3.3 Upon release of a new Version Release, County shall have the option to continue to use its then-current Version Release, rather than implement the new Version Release, until the occurrence of both of the following: (a) Contractor has issued two (2) additional Version Releases beyond what County is then using; and (b) twenty-four (24) months have passed. The level of maintenance and support provided by Contractor with respect to the Version Release required to be used by County under this Section 3.3 shall not degrade throughout the Term.
- 3.4 Following System Acceptance, Contractor shall provide Updates that add significant functionality at least once every eighteen (18) months, unless otherwise agreed to by DPH's Chief Information Officer.
- 3.5 Contractor shall notify County Project Manager of all Updates and Version Releases prior to the anticipated installation date thereof and, subject to Sections 3.3, 3.6 and 3.7 of this Exhibit F, installation thereof shall be subject to the prior approval of County Project Manager. Contractor's provision of all Updates and Version Releases shall be at no additional cost to County beyond the Maintenance Fees. Contractor's implementation and associated training services with respect to (a) all Updates shall not exceed one hundred (100) hours and (b) all Version Releases shall not exceed four hundred (400) hours, such implementation and associated training services to be provided by Contractor and paid for by County as Additional Work under the applicable provisions of this Agreement. Any necessary efforts expended beyond one hundred (100) hours for all Updates and four hundred (400) hours for all Version Releases shall be at no additional cost to County, unless mutually agreed by the Parties under a Change Order or Amendment in advance of Contractor expending such efforts. Prior to the implementation of any Update or Version Release, Contractor shall test and ensure such Update or Version Release is Compatible with the other System components, as well as with the County Environment.
- 3.6 If Contractor provides written notice to County Project Manager that a particular Update (a) is necessary for the System Software to continue to perform in accordance with the System Requirements and other Specifications, (b) requires no change in County's business practice, except to the extent that the Update is being provided in order to maintain the System Software's full compliance with the CDC Public Health Information Network, National Electronic Disease Surveillance System requirements and/or other related federal or state laws, rules regulations, and standards, (c) requires no change in the minimum hardware, software, and/or network configurations then set forth on Exhibit

E (Minimum System Requirements), and (d) requires no additional cost on behalf of the County to implement, and County Project Manager does not authorize installation thereof, then any experienced Downtime and/or Deficiency as a result of the non-implementation of said Update shall not be counted as Unscheduled Downtime and/or a Deficiency as applicable.

- 3.7 In addition to Contractor's other obligations regarding security set forth in the Agreement, any updates, upgrades, enhancements, patches, bug fixes, etc., including Updates, necessary to remedy a security problem in the System (e.g., closing "back doors" or other intrusion-related problems) shall be provided in such time following Contractor's knowledge of such problem as is commensurate with the risk posed by such problem. Contractor may provide such Update without County Project Manager's prior approval where Contractor has deemed in its reasonable judgment the risk warrants proceeding without delay. In such a case, Contractor shall notify County Project Manager as soon as reasonably practical. Contractor shall notify County in accordance with Exhibit G (Contractor's Obligations As a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)) of the existence of any such problems.
- 3.8 Notwithstanding anything to the contrary herein, any Third Party Software that may be incorporated by Contractor shall become part of the Application Software, shall be subject to the same Maintenance Services obligations and requirements and the Application Software components that are proprietary to Contractor.
- 3.9 Contractor shall deliver to County Project Manager revised Documentation that reflects each Update, Version Release, Additional Modification, Additional Interface and/or Additional Products provided by Contractor under the Agreement, promptly after installation of such Update, Version Release, Additional Modification, Additional Interface or Additional Products, as the case may be. Contractor shall also ensure that all technical staff performing Work under the Agreement are familiar with the updated configuration of the System after installation of such Update, Version Release, Additional Modification, Additional Interface or Additional Product, as the case may be. Contractor shall additionally revise the Disaster Recovery Service Level Agreement as necessary in connection with each Update, Version Release, Additional Modification, Additional Interface and/or Additional Product. Upon County Project Manager's approval of such revised Disaster Recovery Service Level Agreement, such revised Disaster Recovery Service Level Agreement shall be deemed to update the Disaster Recovery Service Level Agreement attached as Attachment F.3 for all purposes under the Agreement.

4. SUPPORT SERVICES

- 4.1 Contractor shall provide Support Services for the System as described in this Section 4, Attachment F.1 (Guide to Customer Support Services), Attachment F.2 (ELR (Electronic Lab Reporting) Maintenance and Support), and otherwise in this Exhibit F and the Agreement.

- 4.2 Support Services include (a) providing a help desk, (b) responding to and analyzing Service Requests, and (c) correcting any and all Deficiencies with the System resulting in the failure of the System to perform in accordance with the System Requirements and Specifications, including required Response Times, System Availability, and Compatibility.
- 4.3 Contractor shall respond to and analyze Service Requests and remedy all Deficiencies, in each case, in accordance with the applicable timeframes set forth in Attachment F.1 (Guide to Customer Support Services) based upon assigned Severity Level. Without limiting Contractor's obligations under this Exhibit F and Attachment F.1 (Guide to Customer Support Services) to respond to and analyze Service Requests and to perform Disaster Recovery Services, it is understood and agreed that the timeframes set forth in Attachment F.1 to provide Interim Solution and Final Resolution do not apply to any support issue that is not a Deficiency.
- 4.4 With respect to Compatibility with the County Environment, Contractor shall support new versions of Microsoft operating systems and Internet browsers within the later of: (a) six (6) months of release thereof to the retail public; and (b) six (6) months from County's written notice to Contractor of an intention to implement the new version of a Microsoft operating system and/or Internet browser; unless the Parties mutually agree on a different time period.
- 4.5 Additionally with respect to Compatibility with the County Environment, subject to County Project Manager's written approval thereof, Contractor may revise the minimum hardware, software and/or network configuration requirements then specified (or then deemed to be specified) on Exhibit E (Minimum System Requirements) as required to ensure Compatibility with new Version Releases.
1. Such minimum hardware, software and network configuration requirements shall be limited to those that are (a) required to ensure Compatibility with the new Version Release, and (b) consistent with mainstream personal computer hardware and software (i) in the case of hardware, widely available from a variety of manufacturers no sooner than two (2) years prior to the date of recommendation and capable of running the then-current version of Microsoft Windows, and (ii) in the case of software, widely available from a variety of manufacturers no sooner than one (1) year prior to the date of recommendation, in each case, unless otherwise approved in writing by County Project Manager, such approval not to be unreasonably withheld.
 2. Upon County Project Manager's written approval of the any revised minimum hardware, software and/or network configuration requirements under this Section 4.5, such revised minimum hardware, software and network configuration requirements shall be deemed to update Exhibit E (Minimum System Requirements) for all purposes under the Agreement.
 3. For the sake of clarity, County shall bear the cost of purchasing any minimum hardware, software and/or network configuration requirements required to ensure

Compatibility with a new Version Release, as such minimum requirements are revised by Contractor in accordance with this Section 4.5.

- 4.6 In the event Contractor is not able to remedy a Deficiency relating to Compatibility with respect to a Contractor-recommended County Environment component, Contractor shall reimburse County for the price County paid to acquire such County Environment component.
- 4.7 For each Deficiency, the System shall be deemed to be experiencing Un-Scheduled Downtime from (a) Contractor's failure to provide an Interim Solution for such Deficiency in accordance with the applicable timeframes set forth in Attachment F.1 (Guide to Customer Support Services) until (b) Contractor's provision of an Interim Solution for such Deficiency, provided that (i) County thereafter approves the Interim Solution and (ii) Contractor thereafter provides a Final Resolution within the applicable timeframes set forth in Attachment F.1 (Guide to Customer Support Services).
- 4.8 Notwithstanding Section 4.7 of this Exhibit F, with respect to each six (6) calendar month period during the Term (each a "Deficiency Period"), if the System experiences either (a) more than two (2) Deficiencies having a Severity Level of Critical in any single calendar month during the Deficiency Period, or (b) more than three (3) Deficiencies having a Severity Level of Critical during the Deficiency Period, then commencing with the next Deficiency having a Severity Level of Critical occurring during the Deficiency Period and for each such Deficiency occurring thereafter during the Deficiency Period, the System shall be deemed to be experiencing Un-Scheduled Downtime as follows:
1. From the earlier of (A) County's report of such Deficiency in accordance with the applicable of Attachment F.1 (Guide to Customer Support Services) or Attachment F.2 (ELR (Electronic Lab Reporting) Maintenance and Support), and (B) Contractor's other knowledge of such Deficiency;
 2. Until Contractor's provision of an Interim Solution for such Deficiency, provided that (1) County thereafter approves the Interim Solution and (2) Contractor thereafter provides a Final Resolution within the applicable timeframes set forth in Attachment F.1 (Guide to Customer Support Services).
 3. The foregoing is subject to the Deficiency reclassification process set forth in Attachment F.1 (Guide to Customer Support Services), Response and Resolution Times, for incorrectly classified Deficiencies.
- 4.9 Contractor shall additionally:
1. Detect, troubleshoot, correct, and retrieve missing data from connections between hospitals/Labs/ELR gateways and the System Environments;
 2. Update VPN and other connections as requested by DPH Partners;
 3. Troubleshoot and reinstall ELR gateway servers and mini-PHIL applications/databases when necessary; and
 4. Assist with troubleshooting access issues between DPH Partners and County pertaining to DPH Partners' use of the System Software.

5. HOSTING SERVICES

- 5.1 Contractor shall provide Hosting Services as described in this Section 5 and otherwise in this Exhibit F and the Agreement.
- 5.2 Contractor shall operate and maintain the System Environment, including the System Hardware, System Network and System Operating Software. Contractor shall locate all System Environments within the United States of America.
- 5.3 Contractor shall repair, upgrade or replace these System Environment components during the Term as is necessary for the System to perform in accordance with the System Requirements and other Specifications and to support and be compatible with any Updates, Version Releases, Additional Modifications and/or Additional Interfaces provided by Contractor under the Agreement.
- 5.4 Contractor shall continually monitor the System Environment in order to detect and prevent issues causing the System to perform other than in accordance with the System Requirements and other Specifications. Contractor shall either deliver monthly monitoring reports or shall provide County with access to a method by which to generate such reports.
- 5.5 Contractor shall provide the services described in the Disaster Recovery Service Level Agreement (Attachment F.3) for the System, including (a) ensuring Contractor's readiness to respond to and recover from a Disaster in accordance with the Disaster Recovery Service Level Agreement, and (b) responding to and recovering from each Disaster occurring during the Term in accordance with the Disaster Recovery Service Level Agreement (collectively "Disaster Recovery Services").
- 5.6 Notwithstanding anything to the contrary in the Service Level Requirements, with respect to any Disaster which constitutes a force majeure event under Paragraph 16.0 (Force Majeure) of Exhibit A (Additional Terms and Conditions), the System shall be deemed to be experiencing Un-Scheduled Downtime from (a) Contractor's failure to invoke the Disaster Recovery Services and/or to comply with any applicable timeframe set forth in the Disaster Recovery Service Level Agreement until (b) Contractor's provision of an Interim Solution for the Downtime resulting from the Disaster, provided that (i) County thereafter approves the Interim Solution and (ii) Contractor thereafter provides a Final Resolution within the applicable timeframes set forth in Attachment F.1 (Guide to Customer Support Services). Also notwithstanding anything to the contrary in the Service Level Requirements, with respect to any other Disaster, such Disaster shall be treated as a Deficiency having a Severity Level of Critical under the applicable of Sections 4.7 and 4.8 of this Exhibit F for purposes of determining Un-Scheduled Downtime.
- 5.7 In addition to revisions made to the Disaster Recovery Service Level Agreement under Section 3.9 of this Exhibit F, upon County's request, Contractor and County shall jointly review the Disaster Recovery Service Level Agreement to determine whether any revisions are reasonably necessary based upon any changes to County policies and

procedures affecting the System. If the Parties determine revisions are necessary, Contractor shall make such revisions to the Disaster Recover Service Level Agreement. Upon County Project Manager's approval of the revised Disaster Recovery Service Level Agreement, such revised Disaster Recover Service Level Agreement shall be deemed to update the Disaster Recovery Service Level Agreement attached as Attachment F.3 for all purposes under the Agreement.

5.8 Contractor shall additionally:

1. Provide County staff access to databases and resources that contain County data (e.g., archives for ELR data feeds for various hospitals and folders representing various transformation of ELR data feeds); and
2. Ensure that the System continues to satisfy security requirements of this Agreement.

6. SCHEDULED DOWNTIME

6.1 Unless agreed to otherwise in advance by County and Contractor, Contractor shall perform installation of all Updates and Version Releases and maintenance of all System Environments, in each case, that require System Downtime during Scheduled Downtime, except as otherwise specified in Section 3.7 of this Exhibit F.

6.2 For the purpose of this Exhibit F, Scheduled Downtime shall occur daily (Mondays-Sundays) between the hours of 11:00 PM. and 3:00 AM Pacific Time (PT), unless County (through County Project Manager or otherwise) and Contractor Project Manager mutually agree in writing on a different time. Contractor may change the Scheduled Downtime window by notifying County at least three (3) calendar days notice prior to modifying the Scheduled Downtime, subject to written approval by County Project Manager. Any System Downtime outside of the above window of time without such prior notice and County Project Manager's approval shall be considered Un-Scheduled Downtime for the duration of such System Downtime.

7. WARRANTIES

7.1 In addition to the other warranties set forth in the Agreement, Contractor represents, warrants, covenants and agrees that the System shall meet the performance warranties set forth in this Section 7.

7.2 The System shall perform in accordance with the following warranties:

System Category	Performance	System Performance Requirement
System Availability		The System shall be accessible and shall perform in accordance with the System Requirements and other Specifications 99.9% of the time, as calculated under

	Section 7.3.1 below.
Response Time	The elapsed time to complete (a) ninety-nine percent (99%) of transactions processed by the System in the Production Environment, shall not exceed one (1) second, and (b) the remaining one percent (1%) of transactions shall not exceed five (5) seconds. The Response Time warranty shall not include (i) transactions that consist of running reports, viewing lab reports and web reports via the staging area, (ii) any time delays to the extent attributable to the County Environment, DPH Partners' networks, and the Internet, beyond the point at which Contractor's Internet service provider connects to the infrastructure of the Internet, and (iii) logging on to the System. The Response Time warranty shall be measured during times other than Scheduled Downtime.

7.3 The following criteria shall be applied with regards to System performance warranties:

1. System Availability shall be calculated as follows:

$$\text{System Availability} = \frac{[(\text{Total Monthly Time} - \text{Un-Scheduled Downtime}) \div \text{Total Monthly Time}] \times 100}{1}$$

2. System Response Times shall be measured from the time at which the User's transaction is received by the System Environment and the System Environment provides the response up to the point at which Contractor's Internet service provider connects to the infrastructure of the Internet. Contractor shall provide County with access to a method by which to measure, monitor, and report on System Response Times. Failure to comply with the Response Time warranty shall be considered a Deficiency under this Exhibit F, which Contractor shall remedy in accordance with Support Services.

8. CREDITS

8.1 With respect to any calendar month, in the event that Contractor is not able to maintain the required System Availability performance warranty outside Scheduled Downtime within such month, County shall be entitled to credits in the following amounts (expressed as a percentage of the Hosting Fees and Maintenance Fees for such month), which may be imposed at County Project Director's discretion:

System Availability Percentage	Credit
$\geq 99.9\%$ and $\geq 99.0\%$	No Credits
$\geq 97.0\%$ and $< 99.0\%$	10% of monthly Hosting Fees and Maintenance Fees
$\geq 96.5\%$ and $< 97.0\%$	20% of monthly Hosting Fees and Maintenance Fees
$\geq 96.0\%$ and $< 96.5\%$	40% of monthly Hosting Fees and Maintenance Fees
$\geq 95.5\%$ and $< 96.0\%$	60% of monthly Hosting Fees and Maintenance Fees
$\geq 95.0\%$ and $< 95.5\%$	70% of monthly Hosting Fees and Maintenance Fees
$< 95.0\%$	80% of monthly Hosting Fees and Maintenance Fees

8.2 UNLESS AND UNTIL COUNTY TERMINATES THIS AGREEMENT FOR DEFAULT IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, COUNTY'S RIGHTS TO CREDITS UNDER THIS SECTION 8, TOGETHER WITH THE OTHER RIGHTS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, SHALL CONSTITUTE COUNTY'S SOLE AND EXCLUSIVE REMEDY TO ENFORCE CONTRACTOR'S OBLIGATIONS WITH RESPECT TO THE SYSTEM AVAILABILITY PERFORMANCE WARRANTY.

ATTACHMENT F.1

GUIDE TO CUSTOMER SUPPORT SERVICES

Attachment F.1 (Guide to Customer Support Services) is attached Exhibit F (Service Level Requirements) to County Agreement No. _____ dated _____, 2011 (together with all Exhibits and Attachments, the "Agreement"), by and between the County of Los Angeles, for its Department of Public Health ("County"), and Atlas Database Software Corp. d/b/a Atlas Development Corporation ("Contractor"). Capitalized terms used in this Attachment F.1 without definition have the meanings given to such terms in Exhibit F (Service Level Requirements). "Atlas" and "Contractor" are interchangeable in this Attachment F.1.

Welcome From the Technical Support Team

Atlas is dedicated to providing you and your customers with the highest level of satisfaction in our products and services.

Included in this manual is detailed information on the way our Technical Support Department assists you in optimizing usage of the Atlas products. Our goal is to facilitate communication and provide industry leading Customer Support Services.

This provides such details as: what is available, how to access it, and what levels of responsiveness Atlas shall provide.

Support Service Options

The County has elected to obtain the Standard Support, Extended Support and Holiday Support Options.

Standard Support Option

We recommend this option if you expect to submit Service Requests during regular business hours, Monday – Friday, 5:00 a.m. – 6:00 p.m. Pacific Time (PT).

Extended Support Option

We recommend this option if your site operates beyond the boundaries of the Standard Support coverage. The Extended Support plan includes after-hours and weekend support for critical issues.

Holiday Support Option

We recommend this option if your site operates on Holidays. The Holiday Support plan includes 24 hour support for critical issues for the following Holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, the day after Thanksgiving, Christmas Day.

Hours of Operation

	Number of Calls	Support Hours
Standard Support	Unlimited within range of normal business hours.	5:00 am – 6:00 pm PT, Monday thru Friday, excluding the above listed Holidays.
Extended Support	Unlimited Critical Service Requests (as defined below) ¹ , outside of Standard Support hours.	Includes after-hours and weekend critical Service Requests.
Holiday Support	Unlimited Critical Service Requests.	12:00 am – 11:59 pm PT, on the above listed Holidays.

¹ See Severity Level Response/Resolution Tiers table in the Response and Resolution Times Section of this document for an understanding of Critical Severity Levels.

Guidelines

A Technical Support Specialist will troubleshoot each request for assistance under this Attachment F.1 with respect to the System (each a "Service Request") and provide solutions for issues related to the System. In the event that the Service Requests are not System related, you will be informed of the known or suspected problem.

Before submitting a Service Request, you may consider reviewing the following application product references:

- ❖ Current versions of product release notes
- ❖ Product user guides
- ❖ Installation manuals

Required Information

If you have reviewed the above references and the issue remains, be ready to provide the following information when submitting a Service Request:

- Your name, organization, site name and number.
- Any IssueTrak identification number previously assigned to, or associated with this issue.
- The product(s) and version number(s) being used.
- The error messages and the error message numbers. It may be helpful to include a screen shot of the error if possible.
 - The Severity Level of the problem underlying the Service Request based upon the business impact. The Technical Support Specialist can assist you with this assessment, but you are entitled to characterize the Severity Level. Severity Level characteristics are set forth in the Response and Resolution Times section of this Attachment F.1.
- If the problem is reproducible, have ready the steps required to reproduce it.

Optional Information

Optionally, you may wish to provide:

- Whether this Service Request is time sensitive?
- Whether your dial-in modem is set up and ready for use?
- If you will be away from your office during the day, and if so, is there an alternative contact person familiar with the problem underlying the Service Request?

Contacting Customer Support

Service Requests should be submitted through Atlas's Customer Support Services web based application, IssueTrak. IssueTrak will allow you to submit Service Requests to Technical Support, be updated on progress of the investigation and resolution, and produce service ticket reports for your site. Technical Support will provide you with an individual account as well as IssueTrak functionality training.

Due to the nature of Critical and High Severity Level Service Requests it is recommended that after entering the Service Request into IssueTrak you should telephone the Support team with your request.

Below are the Customer Support Services telephone number, fax number, and Web addresses.

Contact Information

	Telephone	Fax Numbers	Email Address	IssueTrak
	818.340.7080	818.340.7079	support@atlasdev.com	support.atlasdev.com

Reporting a Problem

Service Requests may be reported to Customer Support Services using any of the following methods.

Reporting Methods

1. **IssueTrak:** You can report Service Requests using your web browser at this web address: <https://support.atlasdev.com>. This is the preferred method of reporting most issues and requests. However, issues of a High or Critical Severity Level issues should also be telephoned in after entering the request in IssueTrak.
2. **Telephone:** When you call Customer Support Services at 818.340.7080, you will be directed to the first available Technical Support Specialist. In the event a Technical Support Specialist is not available, your call will be recorded by the Technical Support voice mail box and returned by the next available Specialist.
3. **E-mail:** You can send in Service Requests to support@atlasdev.com using your e-mail system. Please be sure to include your name, organization, a phone number where you can be reached and a complete description of the problem. Your request will be assigned an IssueTrak incident number and you will be contacted to determine the appropriate Severity Level if you have not indicated one in the e-mail request.
4. **Fax:** You can fax Service Requests to Support at 818.340.7079. Please be sure to include your name, organization, a phone number where you can be reached and a complete description of the problem. Your request will be assigned an IssueTrak incident number and you will be contacted to determine the appropriate Severity Level if you have not indicated one in the fax request.

Guide to Telephone Reporting

Each Service Request is logged into the incident tracking system (IssueTrak) and is assigned an incident number. Please record your incident number for future reference.

Before ending the call, please ensure that you either provide, or are aware of the Severity Level assigned to your request. The Severity Level assigned will allow the Technical Support Specialist to appropriately prioritize the problem underlying the Service Request.

If you have reported a Service Request by telephone, be sure to review the checklist below with the Technical Support Specialist before you hang up.

1. Review the Severity Level
2. Review action items for Atlas Technical Support
3. Review action items for which you are responsible
4. Confirm who is responsible for the call back and when
5. Confirm the incident number

IssueTrak

The IssueTrak product is intended to maintain all Support Service Requests, as well as patient data exchange requests.

Once a Service Request is submitted in the IssueTrak system, an email is generated to the Atlas Support team for investigation. A Technical Support Specialist will input the details of the incident and resolution into the original IssueTrak item to memorialize the actions taken and communicate the status.

Signing In to IssueTrak

IssueTrak can be accessed at <https://support.atlasdev.com/>. IssueTrak is a secure site.

In the event that IssueTrak is unavailable, use the alternate URL <https://support2.atlasdev.com/>

A user name and password are required to access IssueTrak. Your assigned Username is as follows: first initial + last name (lower case, no spaces). Please call a Technical Support Specialist for the initial password, after which you will be able to change it on succeeding logins.

Enter your user name and password and click the **Sign On** button on the IssueTrak sign in screen.

Menu Options

Once you are logged in there will be several menu options you can choose from on the left-hand side of the page. This will serve as a navigation bar and will always be present throughout your IssueTrak session.

- Home
- Submit an Issue
- Search Issues
- Lookup Issue #
- Reports
- New Sign In

Each menu option will be discussed in further detail.

Home

The home page will, by default, allow you to click on the **Show Open Issues Submitted By Me** link. This link will display all open Service Requests that you have submitted. Take note, closed requests will not appear in this search.

This page will also display the custom reports you have created. Custom reports can be created in the Search Issue page.

Submit an Issue

The Submit an Issue page will allow you to fill out the required fields and submit a new Service Request. These are the steps for submitting a request:

1. Choose a brief line to describe the incident and enter it into the **Subject** field.

2. Enter the details of the incident into the **Full Description** field. Please put as much information as possible here to avoid callbacks from the support staff requesting further information.
Relevant information would include the nature of the problem, when and where the problem occurs, the frequency of the occurrence, connection information, descriptions or screen-shots of error messages, pertinent site or patient information, etc.
3. Select an **Issue Type** from the drop-down menu to indicate the type of Service Request you are making. Issue types are as follows:
 - *Problem Report* (describes any unexpected behavior. This includes undesired behavior, error messages)
 - *Support Request* (refers to any request in the normal course of business. Examples would be data change requests, maintenance requests)
 - *Question or "How To?"*
 - *Patient Data Dump* (refers to one-time patient or demographic downloads that need to be loaded to a machine or site)
 - *Documentation Request*
 - *Change Order or Enhancement* (request for new enhancements or change in product behavior)
 - *New Release Issue* (describes problems or unexpected behavior encountered in testing a new release)
 - *Off Hours Support* (used to track support that is conducted off-hours, weekends, and holidays)
 - *Internal Request* (used to track issues originating from an Atlas employee)
4. Use the **Priority** drop-down to select the priority of the Service Request you are submitting. The default is Medium (Standard). Make another selection if necessary.
 - a. Critical
 - b. High
 - c. Medium
 - d. Low
5. **Development Issue Number** and **Issue Status** are used for internal tracking purposes and will be filled out by the support analyst assigned to the issue. Issue Status will give you a general idea of where in the incident life cycle your issue stands.
6. Select the **Include Attachment** button for screen shots, data files, documents, or anything else that may need to be included with the Service Request.
7. Click the **Submit Issue** button. The incident number assigned to the Service Request will be then be displayed. This option will take you to the Add Attachments form upon submission of the request.

Search Issues

The **Search Issues** link will take you to a search page that allows you to enter filter criteria by which you can search your Service Requests. Enter values in these fields to narrow your search, or leave them blank to view all incidents (open and closed) ever submitted for your organization. Click the **Search** button to trigger the search.

The **Output** method can be changed towards the bottom of the page, and an Excel sheet can be generated based on the search. Likewise, the **Sort Order** can be manipulated to better format your report.

Searches can be saved as custom reports by choosing a **Report Title**, and clicking **Save as New Report**.

Lookup Issue #

Lookup Issue # option can be used when you know the exact incident number. This will take you to the Issue Detail – View Issue page.

Issue Detail

When an issue is pulled up, additional options will appear in your navigation bar.

- View Issue – brings up all the incident details.
- Add Note to Issue – allows you to add notes to the incident.
- Attachments – allows you to view and add new attachments
- Lookup Issue by # - sends you back to the Lookup Issue by # page.

Reports

The Reports page contains a listing of all custom reports you have created and saved. Custom reports can be created in the **Search Issue** page. If you would like assistance creating reports specific to your day to day needs please contact a Technical Support Specialist for guidance.

New Sign In

Allows you to log out of IssueTrak, and takes you back to the Sign-In page.

Additional Information


Support staff will periodically add notes to this incident to memorialize the actions taken. You also have this ability, and it is recommended that this functionality be used freely and often in order to properly build an incident history.


You will be able to search and view incidents other people in your organization have submitted. You will be notified of changes and updates to any incidents you have submitted via email. Contact the support staff if you would like to be set up with additional automated email notifications, for incidents that were not submitted by you.

Enhancement Requests

You may use IssueTrak or any of the methods mentioned above to submit enhancement or change requests. Each enhancement request is forwarded to the Development Department for analysis. Upon completion of the analysis, a the applicable of a Change Order or Amendment may be prepared in accordance with the Base Agreement. The Change Order or Amendment will be provided to you for review and approval in accordance with the Base Agreement. An example of the Change Order Form follows.

Change Order Form (follows)

 ATLAS DEVELOPMENT CORPORATION		<h2 style="margin: 0;">CHANGE ORDER</h2>	
		Atlas C.O. # _____	
Atlas Product: _____		Client: Los Angeles County	
Change Order Title: _____			
Change Order Edit History (record any changes to this document by making an entry for each new version)			
Date	Author(s)	Revision Comments	
Requirements / Business Need (what is needed & why; include relevant workflow and UI implications)			
Needs thick client deployment? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Proposed Solution (description of solution that would be provided)			
Solution Prerequisites/Dependencies: _____			
Anticipated Delivery (how and when would the solution be delivered)			
___ Delivery Via Retrofit / Patch or Interface If Yes, Specify Version: _____ ___ Delivery Via Future Version / Upgrade		Signature Timeframe: _____ Delivery Timeframe: _____ Signature Timeframe: _____ Delivery Timeframe: _____ Signature Timeframe: _____ Delivery Timeframe: _____	
Fixed Price for Completion			
Quoted Price: (#of hour @ \$145) ___ Fixed Price or ___ Not to Exceed Time and Materials Approved ¹ : _____		Includes the following: <div style="display: flex; justify-content: space-between;"> <div> ___ Investigation / Analysis ___ Design / Development ___ Quality Assurance Testing </div> <div> ___ Implementation ___ Project Management </div> </div>	
Payment Terms			
<p>If on a fixed price basis, payment terms are as follows: Twenty-five percent (25%) of the fixed price payable upon County's approval of the System Requirements and other Specifications in accordance with this Agreement;</p> <p>Fifty percent (50%) of the fixed price payable after Contractor's delivery of a version of the software and/or system to be developed pursuant to the Additional Work deemed ready by Contractor for all associated testing; and</p> <p>Twenty-five percent (25%) of the fixed price payable after County's approval in accordance with this Agreement of successful completion of all associated testing of the software and/or system developed pursuant to the Additional Work and the software and/or system is migrated to the Production Environment, unless County delays migration to the Production Environment for greater than sixty (60) days from the date on which Contractor notifies County in writing of the successful completion of all associated testing of the software and/or system developed pursuant to the Additional Work and the software and/or system is ready to be migrated to the Production Environment, in which case such payment shall then become payable by County. County shall thereafter be entitled to reverse the payment (including through credit to other payments owed to Contractor under this Agreement) if once County is ready to migrate such Additional Work to the Production Environment, such Additional Work is not able to successfully complete County testing.</p>			
Client Authorization – Please Sign and FAX to 818.337.0323			
I hereby authorize Atlas Development Corporation to proceed as outlined in this Change Order. I have read and agree with the estimate for completion and payment terms. I understand that when this Change Order is signed it shall become part of the existing Agreement with Atlas and shall be governed by the terms and conditions of that Agreement.			

 ATLAS DEVELOPMENT CORPORATION	<h2 style="text-align: center;">CHANGE ORDER</h2>	
	Atlas C.O. #	
Atlas Product:	Client: Los Angeles County	
Change Order Title:		
Name / Title (printed): County Project Director		
Signature:	Date:	
Name / Title (printed): DPH Chief Information Officer		
Signature:	Date:	

¹ Manager signature required for N/C or amounts less than \$950.

Diagnosing Issues

To thoroughly investigate a Service Request, the Technical Support Specialist may request permission to dial in to your system. Please be prepared to provide the necessary modem numbers and passwords to accomplish this task.

You may also be asked to provide the Technical Support Specialist with copies of the programs, relevant screen shots, and data files as may be reasonably requested, as well as sufficient support and test time on your computer system. If the problem cannot be reproduced, the Technical Support Specialist will make a good faith effort to identify a workaround until the problem can be reproduced and ultimately corrected.

Deficiency Resolution

If a Service Request is determined to be a Deficiency during the diagnostic process, it will be sent to the Development Department for further analysis and correction. The Technical Support Specialist will check for an existing software correction and will make arrangements with you to install it.

All Deficiencies shall be resolved within the applicable timeframes set forth in the Response and Resolution Times section of this Attachment F.1. You will also be provided with details on when the Deficiency will be permanently addressed by Development.

You may call Technical Support at any time, reference the incident number, and ask for the current status of the Deficiency resolution.

Escalating an Incident

You may escalate a Service Request whenever you feel that Atlas Technical Support is not providing the level of attention you believe is warranted. When escalating a Service Request, be sure to reference the incident number in all communication.

To escalate Service Request, please call and ask to speak with the Technical Support Manager. If the manager is unavailable, please leave a message and he or she will respond as soon as possible to discuss the situation and work with you to create a plan to resolve the incident.

If you have not received a timely response from the Technical Support Manager, please contact the Director of Customer Services or the Vice President of Client Services.

Response and Resolution Times

When you assign a Severity Level for a Service Request, you are also agreeing to the specified response and, if applicable, resolution times that coincide with the incident. The grid below summarized the relationship between each Severity Level and the response/resolution times.

The response time and Interim Solution resolution time starts tolling from the earlier of (a) County's report of the Service Request in accordance with this Attachment F.1 and (b) Atlas' other knowledge of the Deficiency (referred to in this Attachment F.1 as "Report"). The methodology for the calculation of Un-Scheduled Downtime is set forth in Exhibit F.

County may escalate or downgrade a Severity Level of a Deficiency if the Deficiency meets the definition of the Severity Level as escalated or downgraded. A Deficiency may also be escalated by County if the Deficiency persists or re-occurs to warrant an escalated Severity Level, as determined by County Project Manager. Notwithstanding anything to the contrary contained in this Attachment F.1 or the Agreement, County and Contractor may, upon Contractor's request, downgrade the Severity Level of a Deficiency if such Deficiency was incorrectly classified or if following the provision of a workaround or other action of Contractor such Deficiency warrants a downgraded Severity Level. At the time a Deficiency is escalated or downgraded, an appropriate timeline will be applied for resolution of such Deficiency in accordance with this Attachment F.1.

As used in this Attachment F.1, the following terms have the following meanings:

Final Resolution means a correction or modification of the System that corrects the Deficiency or resolves the Support Issue.

Holiday means New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, the day after Thanksgiving, and Christmas Day.

Interim Solution means Atlas: (a) reinitiates or restarts, as applicable, the System, if the reported Deficiency caused the System to be inoperative; (b) enables the client to access the System, if the reported Deficiency caused client to be unable to access the System; or (c) provides client with an acceptable workaround that solves or mitigates a reported Deficiency, which workaround can be provided with minimal client inconvenience.

Problem Analysis means a fax, e-mail or telephone call from Atlas (1) acknowledging that a Service Request has been received and that appropriate technical personnel have been assigned to work on underlying problem, (2) providing details on what Atlas has learned about the problem as of the time of communication, and (3) detailing Atlas' initial analysis of and, if applicable, action plan for resolving the reported Deficiency.

Response means a fax, e-mail or telephone call from Atlas to a support client acknowledging that an incident has been reported.

Support Day means (a) with respect to Service Requests with a Severity Level of Critical, each day of the week including Holidays; and (b) with respect to all other Service Requests, Monday through Friday other than Holidays.

Support Hour means (a) with respect to Service Requests with a Severity Level of Critical, each hour of a Support Day; and (b) with respect to all other Service Requests, each hour between 5 AM and 6 PM Pacific Time of a Support Day.

Support Issue means any problem that is not a Deficiency.

Support Minute means a minute of a Support Hour.

The chart follows on next page.

Severity Level Response/Resolution Tiers

Severity Level	Contact Method	Service Request Definition	Response	Problem Analysis	Interim Solution	Final Resolution
Critical	IssueTrak followed by Telephone	Includes any Deficiency that renders the System or System functionality, the loss of which causes significant business impact to the client, completely inoperative due to a failure to operate in accordance with the applicable System Requirements and other Specifications. Examples of System functionality, the loss of which causes significant business impact to the client, are that the User is unable: (a) to create a new incident or outbreak report; (b) to import disease incident information from the staging area; (c) to import food borne illness complaints form the web; or (d) to modify, update, or save a record.	Immediate if received during Standard Support hours. Thirty (30) minutes following Report for Extended Support and Holiday Support hours.	Two (2) hours following Report.	Four (4) hours following Report.	Within two (2) calendar days following Interim Solution.
High	IssueTrak followed by Telephone	Includes any Deficiency that significantly impacts client's ability to use the System or any System functionality, the loss of which causes significant business impact to the client, because of operational, functional or informational Deficiencies that arise from the System Software's failure to operate in accordance with the applicable System Requirements and other Specifications.	Immediate if received during Standard Support hours. Thirty (30) minutes following Report for Extended Support and Holiday Support hours.	Four (4) hours following Report.	Within twenty-four (24) hours following Report.	Within ten (10) calendar days following Interim Solution.
Med-ium	IssueTrak, telephone, e-mail, or	Includes any Deficiency that adversely affects the	One (1) hour of Report, if	Five (5) business days	Within ten (10) business	Next scheduled

Severity Level	Contact Method	Service Request Definition	Response	Problem Analysis	Interim Solution	Final Resolution
	fax	System such that the System is prevented from operating in accordance with the applicable System Requirements and other Specifications.	received during Standard Support hours.	following Report.	days following Report.	Update/Version Release.
Low	IssueTrak, telephone, e-mail, or fax	Includes any Deficiency that minimally affects the System.	One (1) hour of Report if received during Standard Support hours.	Within ten (10) business days following Report.	Within twenty (20) business days following Report.	Next scheduled Update/Version Release.

Attachment F.2

ELR (Electronic Lab Reporting) Maintenance and Support Guide

Guidelines that will help you to determine who to call or where to go in case of any problems encountered during production related to your ELR .

Contact Information:

Level 1 Support

Hospital Laboratory IT and lab support staff

Name	Title	Phone	Email	Specialty
	Lab assist			Results manager
	IT networks			Administrative
	Other			

Level 2 Support

Los Angeles County (LAC) Support:

Name	Title	Phone	Email	Specialty
Hyung-Suk Lee (Sue)	Clinical analyst – ELR Reports	213 989-7206	hylee@ph.lacounty.gov	Results analysis, Login problems,
Irene Culver	Admin, Financial, Policy and related issues	213-250-8680	iculver@ph.lacounty.gov	Administrative, Policy, Financial and related issues
Kai-Jen Cheng	STD IT	213-744-5905	kcheng@ph.lacounty.gov	STD ELR Reports
Yushan Tong	Admin Support	213-989-7208	ytong@ph.lacounty.gov	Administrative, Financial and related issues
Nelson Saravia	Sys Analyst	213-989-7202	nsaravia@ph.lacounty.gov	Technical software issues
David Yee	Sys Analyst	213-240-7964	dyee@ph.lacounty.gov	Technical software issues
Manuel Cruz	Sys Analyst	213-989-7176	mcruz@ph.lacounty.gov	Technical software issues
Kelly Chung	Clinical Analyst –ELR	213-989-7218	kchung@ph.lacounty.gov	Results analysis, Login Problems

Level 3 Support (must be initiated by LAC)

Three levels of support exist for L.A. County hospitals participating in the ELR program.

The first level of support is your local hospital or lab staff member who has been trained in using tools that manage the ELR network. The components of that tool set include your ELR Gateway server and the software it runs. That software includes three key products: (1) The Atlas P.H.I.L. engine (Public Health Interface Link) that standardizes your outbound lab results messages to the PHIN compliant HL7 format, (2) determines first level of reportability to decide which results to send to public health, (3) sends you alerts for submitted results which may have errors, (4) provides automated ways to correct those errors, (5) and provides a full audit trail (repository of all results received) to use for local infection control efforts or other purposes as you your facility may wish. Other software products on the ELR Gateway provide for automated communication management (Atlas Connect). Atlas Connect is a communication engine that is able to rapidly redirect messaging in the event of failure of the central site.

The second level of support is the professional staff at Los Angeles County Public Health (LACPH). LACPH staff can help with any issue that can't be resolved by your local support staff. They can answer questions regarding reporting practices, results encoding whether LOINC or SNOMED and other issues related to coding. They can also answer questions regarding the operation of your ELR Gateway and its various software components as well as assist with communication and other technical issues.

The third level of support occurs when LACPH is unable to move a problem readily to resolution. If a problem cannot be solved by LACPH staff, LACPH will open an issue in Atlas Development's issue-tracking system. Atlas Development is the software vendor that developed and supports P.H.I.L., ELR Gateway, and Atlas Connect. LACPH can open an issue online and/or directly contact support staff within Atlas to address the problems. Problems range from low priority to highly critical. Once the issue is opened you may receive a call from technical support to diagnose the issue, run some tests or perform other actions. Once an issue is opened it remains open until a solution or workaround is provided. For ELR support Atlas must be brought into the support cycle by LACPH staff.



Atlas Medical Software is a division
of Atlas Development Corporation

Attachment F.3

Disaster Recovery Service Level Agreement - LA County

Disaster Recovery Process Overview and Service Level Agreement for vCMR system

Documentation Version History:

Version 5.0 – Adds statements regarding DR readiness

Version 4.0 – Incorporate SLAs; reference to DR Plan to be developed

Version 3.0 Attachment F.3

Version 2.0 Updates on Data Centers (05/11/2010)

Version 1.0 Original Document published. (09/01/2005)

Attachment F.3 (Disaster Recovery Service Level Agreement) is attached Exhibit F (Service Level Requirements) to County Agreement No. _____ dated _____, 2011 (together with all Exhibits and Attachments, the "Agreement"), by and between the County of Los Angeles, for its Department of Public Health ("County"), and Atlas Database Software Corp. d/b/a Atlas Development Corporation ("Contractor"). Capitalized terms used in this Attachment F.3 without definition have the meanings given to such terms in Exhibit F (Service Level Requirements).

This document briefly describes and defines an Adverse Operation (AOS) event and the corresponding service level agreement for restoring services in the event of an unrecoverable disaster at the Primary Atlas Data Center in Calabasas, CA. As used herein, AOS event has the same meaning given to the term "Disaster" in Exhibit F (Service Level Requirements). "AOS event" and "Disaster" are interchangeable in this Attachment F.3.

Attachment F.3 is an interim document, and accordingly does not outline all service level agreements with respect to a Disaster. The parties agree that they shall develop a mutually agreeable Updated Disaster Recovery Service Level Agreement under Exhibit B (Statement of Work) to the Agreement, which shall detail the

response plan, procedures, roles and responsibilities of both parties in the event of an AOS event. "Atlas" and "Contractor" are interchangeable in this Attachment F.3.

I. Service Level Agreement during an AOS Event

It is understood that certain functional modules within the System Software are required for the System Environment to be minimally operational. Other functional modules, while necessary for complete System Environment functionality, are not necessary to render the basic System Environment operational. The following functional modules are considered necessary for the System Environment to be minimally operational:

- Community Reporting Module
- Manual Lab Reporting
- Lab Reporting Module
- External Lab Viewer
- FBI
- PHIL

(collectively the "Core Functional Modules").

The following functional modules are not necessary for the System Environment to be minimally operational but are nonetheless part of the System Environment and are required for the System Environment to be fully operational:

- ARNOLD
- Atlas Connect/SFTP
- Atlas CD Key
- Visual CMR Certificate Authority
- Mini PHIL
- NCM
- Syndromic
- VPN Connections

(collectively the "Non-Core Functional Modules")

All Core Functional Modules shall have a successful "snapshot" taken and updated no less frequently than every four hours such that all Core Functional Modules shall have no more potential data loss than the last four hours. This represents the Core Functional Module Recovery Point.

ARNOLD and NCM shall have a successful "snapshot" taken and updated no less frequently than eight hours. Atlas Connect/SFTP and Visual CMR Certificate Authority shall have a successful "snapshot" taken and updated every twenty-four hours. These time frames represent these Non-Core Functional Module Recovery Points. The other Non-Core Functional Modules do not have an applicable Recovery Point.

With respect to Atlas Connect/SFTP, the Recovery Point is related only to configuration data pertaining to a new laboratory and not transactional data loss. Moreover, the Recovery Time pertains only to having an operational Functional Module and does not cover the ability of the laboratory to redirect their traffic to a new facility.

With the exception of Atlas CD Key, Mini PHIL and VPN Connections, Contractor shall bring all Core and Non-Core Functional Modules of the System Environment back to an operational state within eight hours from the time when a Disaster is declared (the "Recovery Time").

Atlas CD Key is on a server/desktop located within DPH facilities and is not maintained by Contractor. Any backup, service, and support is provided by DPH personnel.

Mini PHIL is located within each distinct trading partner's datacenter. The hardware that runs Mini PHIL is not maintained by Contractor and any backup, service, and support is provided by the trading partner.

The following table sets forth the service level agreement for recovery from an AOS that is characterized as a Disaster.

VPN Connections require the engagement of third party trading partners that have no obligation under this Attachment F.3 and shall be independently negotiated. Based on the foregoing the following Service Level Matrix shall apply to restoration and business continuity efforts in the event of an AOS.			
Service Level Matrix			
<u>Functional Module</u>	<u>Is Core</u> ¹	<u>Recovery Point (hrs)</u> ²	<u>Recovery Time (hrs)</u> ³
Community Reporting Module	Yes	4	8
Manual Lab Reporting	Yes	4	8
Lab Reporting Module	Yes	4	8
External Lab Viewer	Yes	4	8
FBI	Yes	4	8
ARNOLD	No	8	8
Atlas Connect/SFTP ⁴	No	24	8
Atlas CD Key ⁵	No	N/A	N/A
Visual CMR Certificate Authority	No	24	8
Mini PHIL ⁶	No	N/A	N/A
PHIL	Yes	4	8
NCM	No	8	8
Syndromic ⁷	No	N/A	8
VPN Connections ⁸	No	N/A	N/A
¹ Is Core represents that this Functional Module is required to be operational in order to provide a minimal operational state of the System.			

² Recovery Point represents the hours of potential data loss since the last successful "snapshot".
³ Recovery Time represents the hours required to fully bring the Functional Module back to an operational state from the time when a disaster is declared.
⁴ The Recovery Point is related only to configuration data pertaining to a new laboratory, not transactional data loss. Additionally, the recovery service level agreement only pertains to having an operational Functional Module and does not cover the ability of the laboratory to redirect their traffic to a new facility.
⁵ Atlas CD Key is on a server/desktop located within DPH facilities. This server/desktop is not maintained by Atlas and any backup, service, and support is provided by DPH personnel.
⁶ Mini P.H.I.L. instances are located within each distinct trading partner's datacenter. The hardware that runs this software is not maintained by Atlas and any backup, service, and support is provided by the trading partner.
⁷ All data that resides upon the Syndromic Servers within the Calabasas data center is download by DPH personnel and stored upon a server within DPH.
⁸ All VPN connections require the engagement of 3rd party trading partners that do not have any obligations under this service level agreement.

II. Service Level Agreement to Ensure Disaster Recovery Readiness

Contractor shall ensure its readiness to respond to and recover from an AOS event in accordance with this Attachment F.3, including maintaining the appropriate redundancy and failover capabilities, performing the appropriate System monitoring, and performing the appropriate readiness testing.

EXHIBIT G

CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH)

Under County Agreement No. _____ for Department of Public Health, dated _____, 20__ (together with all exhibits and attachments thereto, all as amended from time to time, "Agreement"), Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services.

Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (together, the "Privacy and Security Regulations"). The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate ("Business Associate Agreement") in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Further, pursuant to the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), effective February 17, 2010, certain provisions of the HIPAA Privacy and Security Regulations apply to Business Associates in the same manner as they apply to Covered Entity and such provisions must be incorporated into the Business Associate Agreement.

This Business Associate Agreement and the following provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Business Associate in compliance with HIPAA's Privacy and Security Regulations and the HITECH Act, as they now exist or may hereafter be amended.

Therefore, the parties agree as follows:

DEFINITIONS

- 1.1 "Breach" has the same meaning as the term "breach" in 45 C.F.R. § 164.402.
- 1.2 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

- 1.3 "Electronic Health Record" has the same meaning as the term "electronic health record" in the HITECH Act, 42 U.S.C. section 17921. Electronic Health Record means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- 1.4 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet (wide-open), extranet (using Internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.
- The term "Electronic Media" draws no distinction between internal and external data, at rest (that is, in storage) as well as during transmission.
- 1.5 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.6 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.7 "Minimum Necessary" refers to the minimum necessary standard in 45 C.F.R. § 164.502 (b) as in effect or as amended.
- 1.8 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164, also referred to as the Privacy Regulations.
- 1.9 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by

Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.

- 1.10 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.
- 1.11 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.
- 1.12 "Security Rule" means the Security Standards for the Protection of Electronic Health Information also referred to as the Security Regulations at 45 Code of Federal Regulations (C.F.R.) Part 160 and 164.
- 1.13 "Services" has the same meaning as in the body of this Agreement.
- 1.14 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.
- 1.15 "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.
- 1.16 Terms used, but not otherwise defined in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Regulations and HITECH Act.

OBLIGATIONS OF BUSINESS ASSOCIATE

- 2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:
 - (a) shall Use and Disclose Protected Health Information only as necessary to perform the Services, and as provided in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 of this Agreement;
 - (b) shall Disclose Protected Health Information to Covered Entity upon request;

- (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
 - i. Use Protected Health Information; and
 - ii. Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose or in any manner that would constitute a violation of the Privacy Regulations or the HITECH Act if so Used or Disclosed by Covered Entity.

2.2 Prohibited Uses and Disclosures of Protected Health Information. Business Associate:

- (a) shall not Use or Disclose Protected Health Information for fundraising or marketing purposes.
- (b) shall not disclose Protected Health Information to a health plan for payment or health care operations purposes if the Individual has requested this special restriction and has paid out of pocket in full for the health care item or service to which the Protected Health Information solely relates.
- (c) shall not directly or indirectly receive payment in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act. This prohibition shall not affect payment by Covered Entity to Business Associate. Covered Entity shall not provide such written consent except upon express approval of the departmental privacy officer and only to the extent permitted by law, including HIPAA and the HITECH Act.

2.3 Adequate Safeguards for Protected Health Information. Business Associate:

- (a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Business Associate Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the Minimum Necessary in accordance with the Privacy Regulation's minimum necessary standard as in effect or as amended.
- (b) as to Electronic Protected Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information; effective February 17, 2010, said safeguards shall be in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312, and shall comply with the Security Rule's policies and procedure and documentation requirements.

2.4 Reporting Non-Permitted Use or Disclosure and Security Incidents and Breaches of Unsecured Protected Health Information. Business Associate

- (a) shall report to Covered Entity each Use or Disclosure of Protected Health Information that is made by Business Associate, its employees, representatives, Agents, subcontractors, or other parties under Business Associate's control with access to Protected Health Information but which is not specifically permitted by this Business Associate Agreement or otherwise required by law.
- (b) shall report to Covered Entity each Security Incident of which Business Associate becomes aware.
- (c) shall notify Covered Entity of each Breach by Business Associate, its employees, representatives, agents or subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of the Business Associate as determined in accordance with the federal common law of agency.

2.4.1 Immediate Telephonic Report. Except as provided in Section 2.4.3, notification shall be made immediately upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information by telephone call to (562) 940-3335.

2.4.2 Written Report. Except as provided in Section 2.4.3, the initial telephonic notification shall be followed by written notification made without unreasonable delay and in no event later than three (3) business days from the date of discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach by the Business Associate to the Chief Privacy Officer at:

Chief Privacy Officer
Kenneth Hahn Hall of Administration
500 West Temple Street
Suite 525
Los Angeles, California 90012
HIPAA@auditor.lacounty.gov
(213) 974-2166

- (a) The notification required by section 2.4 shall include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used, or Disclosed; and

- (b) the notification required by section 2.4 shall include, to the extent possible, all information required to provide notification to the Individual under 45 C.F.R. 164.404(c), including:
- i. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - ii. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - iii. Any other details necessary to conduct an assessment of whether there is a risk of harm to the Individual;
 - iv. Any steps Business Associate believes that the Individual could take to protect him or herself from potential harm resulting from the breach;
 - v. A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to the Individual, and to protect against any further Breaches; and
 - vi. The name and contact information for the person most knowledge regarding the facts and circumstances of the Breach.

If Business Associate is not able to provide the information specified in section 2.3.2 (a) or (b) at the time of the notification required by Section 2.4.2, Business Associate shall provide such information promptly thereafter as such information becomes available.

2.4.3 Request for Delay by Law Enforcement. Business Associate may delay the notification required by Section 2.4 if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security. If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay notification, notice, or posting for the time period specified by the official; if the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay the notification, notice, or posting temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in this section is submitted during that time.

2.5 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement.

2.6 Breach Notification. Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information, provide Breach notification for each and every Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or subcontractors, in a manner that permits Covered Entity to comply with its obligations under Subpart D, Notification in the Case of Breach of Unsecured PHI, of the Privacy and Security Regulations, including:

- (a) Notifying each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of such Breach;
- (b) The notification required by paragraph (a) of this Section 2.6 shall include, to the extent possible:
 - i. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - ii. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - iii. Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
 - iv. A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
 - v. Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
 - vi. The notification required by paragraph (a) of this section shall be written in plain language Covered Entity, in its sole discretion, may elect to provide the notification required by this Section 2.6, and Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, including costs of notification, Internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information.

2.7 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.

Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

- 2.8 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a “designated record set” as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.
- 2.9 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a “designated record set” as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.
- 2.10 Accounting of Disclosures. Upon Covered Entity’s request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors, in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and/or the HITECH Act which requires an Accounting of Disclosures of Protected Health Information maintained in an Electronic Health Record for treatment, payment, and health care operations.

Any accounting provided by Business Associate under this Section 2.10 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.10, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.10 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. If Business Associate maintains an Electronic Health Record, Business Associate shall

provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.

- 2.11 Indemnification. Business Associate shall indemnify, defend, and hold harmless Covered Entity, including its elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, penalties and fines (including regulatory penalties and/or fines), and expenses (including attorney and expert witness fees), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement; Business Associate's obligations under this provision extend to compliance and/or enforcement actions and/or activities, whether formal or informal, of Secretary of the federal Department of Health and Human Services and/or Office for Civil Rights.

OBLIGATION OF COVERED ENTITY

- 3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

TERM AND TERMINATION

- 4.1 Term. The term of this Business Associate Agreement shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.
- 4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall:
- (a) Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
 - (b) Immediately terminate this Agreement if a party has breached a material term of this Agreement and cure is not possible; or
 - (c) If neither termination nor cure is feasible, report the violation to the Secretary of the federal Department of Health and Human Services.
- 4.3 Disposition of Protected Health Information Upon Termination or Expiration.
- (a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or

created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

- 5.1 **No Third Party Beneficiaries.** Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 5.2 **Use of Subcontractors and Agents.** Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Business Associate Agreement.
- 5.3 **Relationship to Services Agreement Provisions.** In the event that a provision of this Business Associate Agreement is contrary to another provision of this Agreement, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of this Agreement.
- 5.4 **Regulatory References.** A reference in this Business Associate Agreement to a section in the Privacy or Security Regulations means the section as in effect or as amended.
- 5.5 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 **Amendment.** The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations and other privacy laws governing Protected Health Information.

EXHIBIT H

INVOICE DISCREPANCY REPORT

1. INVOICE DISCREPANCY (to be completed by County Project Manager)

Today's Date: _____

Contractor: _____

Phone: _____

Date of Subject Invoice: _____

Description of Issues with Subject Invoice: _____

Signed: _____ Date: _____

County Project Manager (CPM)

2. REVIEWED:

Signed: _____ Date: _____

County Project Director (CPD)

3. CONTRACTOR RESPONSE (to be completed by Contractor Project Director)

Date received from CPD: _____

Explanation regarding Issues with Subject Invoice: _____

Corrective Action Taken: _____

Signed: _____ Date: _____

Contractor Project Director

4. COUNTY EVALUATION of Contractor's Response and Action taken: _____

5. Approved by COUNTY:

Signed: _____ Date: _____

County Project Director

6. Contractor Notified on _____ (Date)

INSTRUCTIONS CPM : Forward IDR to the Contractor for investigation and response. Contractor: Must respond to CPD in writing within ten (10) Business Days of receipt of IDR.

EXHIBIT I
CONTRACTOR'S EEO CERTIFICATION

Company Name

Address

Internal Revenue Service Employer Identification Number

GENERAL

In accordance with provisions of the County Code of the County of Los Angeles, the Proposer certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CERTIFICATION	YES	NO
1. Contractor has written policy statement prohibiting discrimination in all phases of employment.	()	()
2. Contractor periodically conducts a self-analysis or utilization analysis of its work force.	()	()
3. Contractor has a system for determining if its Employment practices are discriminatory against protected groups.	()	()
4. When problem areas are identified in employment practices, Contractor has a system for taking reasonable corrective action to include establishment of goal and/or timetables.	()	()

Signature

Date

Name and Title of Signer (please print)

EXHIBIT J

ACKNOWLEDGEMENT, CONFIDENTIALITY AND ASSIGNMENT AGREEMENT

AGREEMENT NAME & NUMBER: _____

CONTRACTOR/EMPLOYER NAME: _____

GENERAL INFORMATION:

Your employer referenced above ("Contractor") has entered into the above-referenced Agreement with the County of Los Angeles ("County") to perform work under the Agreement or has entered into a subcontract to perform such work. The County requires your signature on this Acknowledgement, Confidentiality & Assignment Agreement.

EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor is my sole employer for purposes of the above-referenced Agreement. I understand and agree that I must rely exclusively upon Contractor for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced Agreement.

I understand and agree that I am not an employee of the County for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County by virtue of my performance of work under and as defined in the above-referenced Agreement. I understand and agree that I do not have and will not acquire any rights or benefits from the County pursuant to any agreement between any person or entity and the County, including, without limitation, the above-referenced Agreement.

CONFIDENTIALITY AGREEMENT:

I acknowledge that because I may be involved with work pertaining to services provided by the County and I may have access to confidential data and information of County and/or its constituents, including, without limitation, the Confidential Information defined below. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County, including, without limitation, the Confidential Information. I understand that the County has a legal obligation to protect all such confidential data and information in its possession and that if I am involved in County Work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I must sign this Acknowledgement, Confidentiality & Assignment Agreement as a condition of my work to be provided by Contractor for the County.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Agreement, including, without limitation, the Confidential Information. I agree to forward all requests for the release of any data or information received by me to my immediate supervisor or such other responsible member of Contractor's staff as Contractor designates to me.

I agree to protect this data and information, including, without limitation, the Confidential Information, against disclosure to any person or entity other than Contractor or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor or such other responsible member of Contractor's staff as Contractor designates to me any and all violations of the above-referenced Agreement by myself and/or by any other person of which I become aware. I agree to return all such data and information, including, without limitation, the Confidential Information, to my immediate supervisor or such other responsible member of Contractor's staff as Contractor designates to me upon completion of the above-referenced Agreement, or termination of my employment with Contractor, whichever occurs first.

ASSIGNMENT OF PROPRIETARY RIGHTS:

As used in this document, "Works" means (i) any inventions, trade secrets, ideas, original works of authorship or Confidential Information that I conceive, develop, discover or make in whole or in part during my employment with Contractor which relates to the above-referenced Agreement, (ii) any inventions, trade secrets, ideas, original works of authorship or Confidential Information that I conceive, develop, discover or make in whole or in part during or after my employment with Contractor which are made through the use of any of Contractor's equipment, facilities, supplies, trade secrets or time, or which result from any work I perform for Contractor, and (iii) any part or aspect of any of the foregoing. "Confidential Information" means all information or material disclosed to or known by me as a consequence of my employment with Contractor, including third party information or information disclosed by County that Contractor treats as confidential, and any information disclosed to or developed by me or embodied in or relating to the Works.

All Works shall belong exclusively to Contractor whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all Works shall be deemed to be "works made for hire" under the United States Copyright Act, and Contractor shall be deemed to be the author thereof.

If and to the extent any Works are determined not to constitute "works made for hire," or if any rights in the Works do not accrue to Contractor as a work made for hire, I irrevocably assign and transfer to Contractor to the maximum extent permitted by law all right, title and interest in the Works, including but not limited to all copyrights, patents, trade secret rights, and other proprietary rights in or relating to the Works. Without limiting the foregoing, I irrevocably assign and transfer to Contractor all economic rights to the Works, including without limitation the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the Works.

I expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonym used in connection with the Works.

I expressly approve any and all modifications, uses, publications and other exploitation of the Works that Contractor or any successor or transferee of Contractor may elect to make, and I expressly agree that no such modifications, uses, publications or exploitations will or may cause harm to my honor or reputation, or will be deemed to constitute a distortion or mutilation of the Works.

I agree to provide any assistance reasonably requested by Contractor, now and in the future, to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship belonging or assigned to Contractor. I shall execute any transfers of ownership of letters patent or assignments of copyrights or other proprietary rights transferred or assigned hereunder (including short form assignments intended for recording with the U.S. Copyright Office, the U.S. Patent and Trademark Office, or any other entity). If Contractor is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations or on any document transferring or assigning any patent, copyright or other proprietary right that I am obligated to transfer or assign, I irrevocably designate and appoint Contractor and its duly authorized officers and agents as my agent and attorney in fact, to act for, and on my behalf and stead, to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers or assignments thereof or of any other proprietary rights with the same legal force and effect as if executed by me. This appointment is coupled with an interest and is irrevocable.

This Acknowledgement, Confidentiality & Assignment Agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (the text of which follows) relating to inventions made by an employee. Accordingly, this Acknowledgement, Confidentiality & Assignment Agreement is not intended and shall not be interpreted to assign to or vest in Contractor any of my rights in any inventions developed entirely on my own time without using Contractor's equipment, supplies, facilities, or trade secret information, except for those inventions that either relate at the time of conception or reduction to practice of the invention to Contractor's business or the actual or demonstrably anticipated research or development of Contractor, or result from any work I performed for Contractor.

California Labor Code Section 2870. Employment Agreements; Assignment of Rights

- (a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:
 - (1) Relate at the time of conception or reduction to practice of the invention to the employer's business or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

- (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

I acknowledge that violation of this document may subject me to civil and/or criminal action and that the County may seek all possible legal redress.

Signed: _____ Dated: ____/____/____

Printed: _____

Position: _____

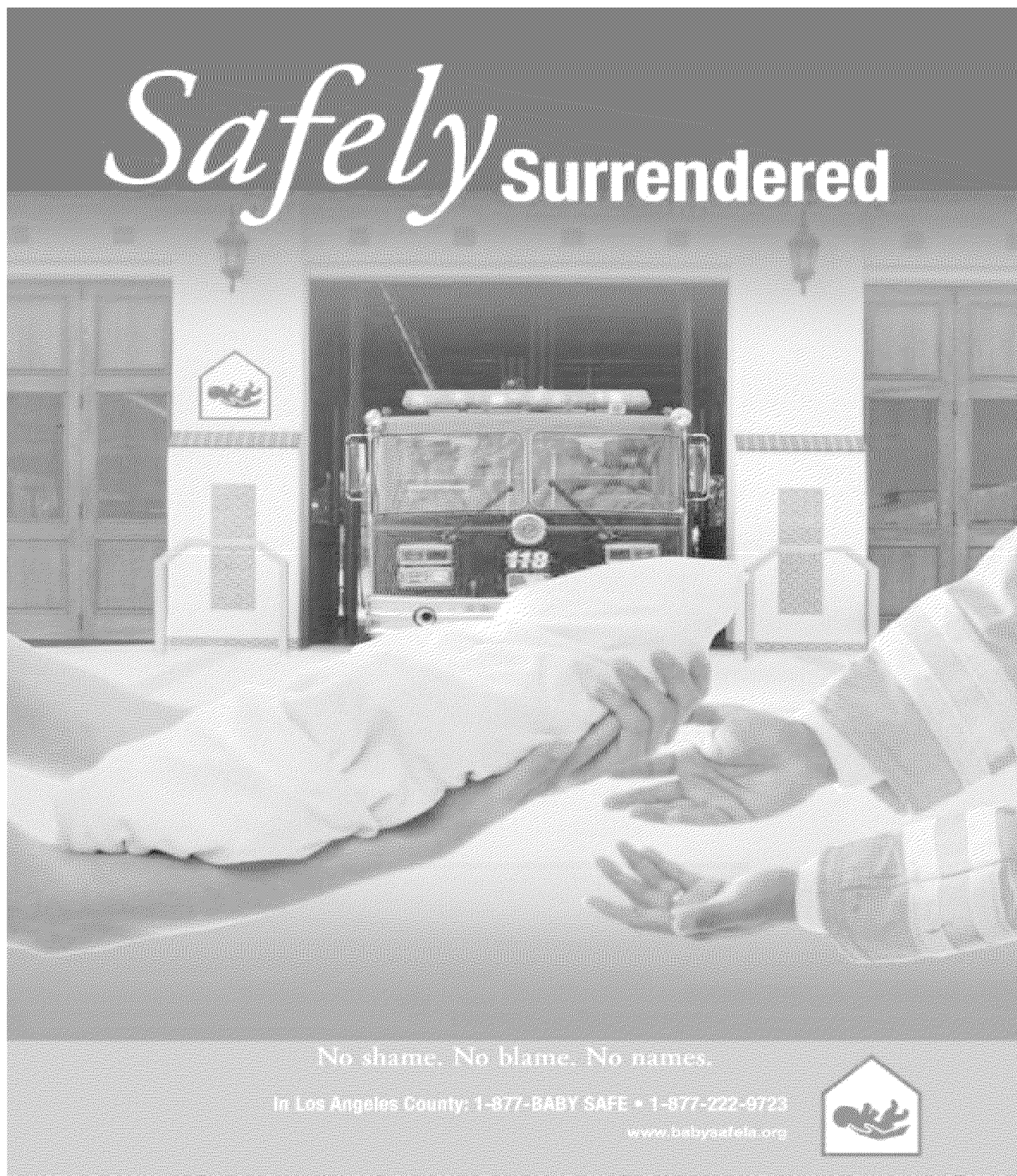
EXHIBIT K
DELIVERABLE ACCEPTANCE FORM

[See Attached]

(Contractor Name and Address)		TRANSMITTAL DATE
DELIVERABLE ACCEPTANCE FORM		AGREEMENT NAME
		COUNTY CONTRACT NUMBER
FROM: <i>Contractor Project Director</i>	TO: <i>County Project Director</i>	
Name: _____ _____ (Signature Required)	Name: _____	
<p>Contractor hereby certifies to County that as of the date of this Deliverable Acceptance Form, it has satisfied all conditions precedent in the above Agreement (including the Exhibits and Attachments thereto and any executed Change Orders or Amendments) to the completion of the Work described below, including satisfaction of all completion criteria applicable to such Work (including obtaining County's approval of any other Work which is a prerequisite to obtaining County's approval of the Work described below). Contractor further represents and warrants that the Work described below has been completed in accordance with the Agreement, including the Exhibits and Attachments thereto and any executed Change Orders and Amendments. County's approval and signature constitutes an acceptance of the Work described below. Capitalized terms used in this Deliverable Acceptance Form without definition have the meanings given to such terms in the Agreement.</p>		
TASK DESCRIPTION	DELIVERABLE DESCRIPTION	OTHER WORK DESCRIPTION
(Reference any Task designation in Exhibit B (Statement of Work) and/or executed Change Order/Amendment)	(Reference any Deliverable designation in the in Exhibit B (Statement of Work) and/or executed Change Order/Amendment)	(Reference any other designation in Exhibit B (Statement of Work) and/or executed Change Order/Amendment)
Comments:		
Attached hereto is a copy of all supporting documentation required pursuant to the Agreement, including the Exhibits and Attachments thereto, and any executed Change Orders and Amendments, and including any additional documentation reasonably requested by County.		
COUNTY <input type="checkbox"/> APPROVAL OR <input type="checkbox"/> DISAPPROVAL IF DISAPPROVAL, CORRECTIVE ACTION REQUIRED: _____ _____ _____ _____ _____		
NAME: _____ TITLE: County Project Director SIGNATURE: _____ DATE: _____		

EXHIBIT L

SAFELY SURRENDERED BABY LAW




Safely Surrendered

No shame. No blame. No names.

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



Safely Surrendered Baby Law

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone to whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of arrest or prosecution.

In Los Angeles County: 1 877 BABY SAFE 1 877 222 9723
www.babysafela.org

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

What happens to the parent or surrendering adult?

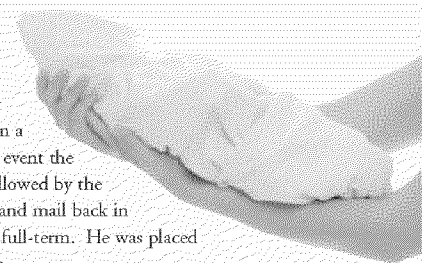
Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



Ley de Entrega de Bebés *Sin Peligro*



*Los recién nacidos pueden ser entregados en forma segura al personal
de cualquier hospital o cuartel de bomberos del Condado de Los Angeles*

Sin pena. Sin culpa. Sin nombres.

En el Condado de Los Angeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



Ley de Entrega de Bebés Sin Peligro

¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazaletes y el padre/madre o el adulto que lo entregue recibirá un brazaletes igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

¿Qué pasará con el padre/madre o adulto que entregue al bebé?

Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

¿Por qué se está haciendo esto en California? ?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

Historia de un bebé

A la mañana temprano del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazaletes con un número que coincidía con la pulsera del bebé; esto serviría como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del período de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.

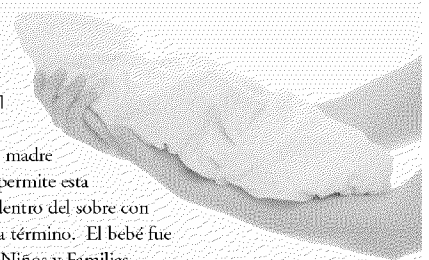


EXHIBIT M

JURY SERVICE ORDINANCE

Title 2 ADMINISTRATION

Chapter 2.203.010 through 2.203.090

CONTRACTOR EMPLOYEE JURY SERVICE

2.203.010 Findings.

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

2.203.020 Definitions.

The following definitions shall be applicable to this chapter:

- A. “Contractor” means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. “Employee” means any California resident who is a full-time employee of a contractor under the laws of California.
- C. “Contract” means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
 - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
 - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
 - 3. A purchase made through a state or federal contract; or

4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or
 8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.
- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
 2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.030 Applicability.

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.040 Contractor Jury Service Policy.

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

2.203.050 Other Provisions.

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

2.203.060 Enforcement and Remedies.

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

- 1. Recommend to the board of supervisors the termination of the contract; and/or,
- 2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

2.203.070. Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
 - 1. Has ten or fewer employees during the contract period; and,
 - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
 - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

"Dominant in its field of operation" means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

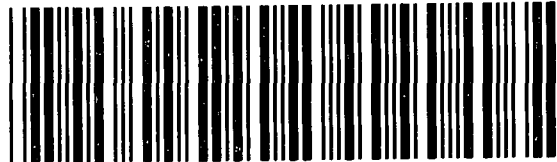
2.203.090. Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

EXHIBIT N SOURCE CODE ESCROW AGREEMENT



Iron Mountain Intellectual Property Management



S4053556



IRON MOUNTAIN®

Iron Mountain offers records management for both physical and digital media, disaster recovery support, consulting services, and is the leader in intellectual property protection, specializing in technology escrow and domain name records management. Comac, a subsidiary of Iron Mountain, provides marketing collateral fulfillment services. Iron Mountain is committed to delivering responsive and reliable service to meet our customers' needs. Our proven systems and processes ensure that we provide quality and consistent service to our customers. Be sure to visit our website, www.ironmountain.com for more information.

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EFFECTIVE DATE: January 4, 2010

MASTER DEPOSIT ACCOUNT NUMBER: 37181

THREE-PARTY MASTER DEPOSITOR
ESCROW SERVICE AGREEMENT

1. Introduction:

This Escrow Service Agreement (the "**Agreement**") is entered into by and between Atlas Development Corporation ("**Depositor**"), and by any additional party enrolling as a "**Beneficiary**" upon execution of the Beneficiary Enrollment Form attached as Exhibit E to this Agreement and by Iron Mountain Intellectual Property Management, Inc. ("**Iron Mountain**"). Beneficiary, Depositor, and Iron Mountain may be referred to individually as a "Party" or collectively as the "Parties" throughout this Agreement.

(a) The use of the term services in this Agreement shall refer to Iron Mountain services that facilitate the creation, management, and enforcement of software or other technology escrow accounts as described in Exhibit A attached hereto ("**Services**"). A Party shall request Services under this Agreement by submitting a work request for certain Iron Mountain Services ("**Work Request**") via written instruction or the online portal maintained at the website located at www.ironmountainconnect.com or on other websites owned or controlled by Iron Mountain that are linked to that website (collectively the "**Iron Mountain Website**").

(b) The Beneficiary and Depositor have, or will have, entered into a license agreement or other agreement ("**License Agreement**") conveying intellectual property rights to the Beneficiary, and the Parties intend this Agreement to be considered as supplementary to such agreement, pursuant to Title 11 United States [Bankruptcy] Code, Section 365(n).

2. Depositor Responsibilities and Representations.

- (a) Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement ("**Deposit Material**") to Iron Mountain within thirty (30) days of the Effective Date. Depositor may also update Deposit Material from time to time during the Term (as defined below) of this Agreement provided a minimum of one (1) complete and functional copy of Deposit Material is deposited with Iron Mountain at all times. At the time of each deposit or update, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain using the form attached hereto as Exhibit B.
- (b) Depositor represents that it lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement and that any current or future Deposit Material liens or encumbrances will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement. Depositor warrants that with respect to the Deposit Material, Iron Mountain's proper administration of this Agreement will not violate the rights of any third parties.
- (c) Depositor represents that all Deposit Material is readable and useable in its then current form; if any portion of such Deposit Material is encrypted, the necessary decryption tools and keys to read such material are deposited contemporaneously.
- (d) Depositor agrees, upon request by Iron Mountain, in support of Beneficiary's request for verification Services, to promptly complete and return the Escrow Deposit Questionnaire attached hereto as Exhibit Q. Depositor consents to Iron Mountain's performance of any level(s) of verification Services described in Exhibit A attached hereto and Depositor further consents to Iron Mountain's use of a subcontractor to perform verification Services. Any such subcontractor shall be bound by the same confidentiality obligations as Iron Mountain and shall not be a direct competitor to either Depositor or Beneficiary. Iron Mountain shall be responsible for the delivery of Services of any such subcontractor as if Iron Mountain had performed the Services. Depositor represents that all Deposit Material is provided with all rights necessary for Iron Mountain to verify such proprietary technology and materials upon receipt of a Work Request for such Services or agrees to use commercially reasonable efforts to provide Iron Mountain with any necessary use rights or permissions to use materials necessary to perform verification of the Deposit Material. Depositor agrees to reasonably cooperate with Iron Mountain by providing reasonable access to its technical personnel for verification Services whenever reasonably necessary.

3. Beneficiary Responsibilities and Representations.

- (a) Beneficiary acknowledges that, as between Iron Mountain and Beneficiary, Iron Mountain's obligation is to maintain the Deposit Material as delivered by the Depositor and that, other than Iron Mountain's inspection of the Deposit Material (as described in Section 4) and the performance of any of the optional verification Services listed in Exhibit A, Iron Mountain has no other obligation regarding the completeness, accuracy, or functionality of the Deposit Material.
- (b) Beneficiary may submit a verification Work Request to Iron Mountain for one or more of the Services defined in Exhibit A attached hereto and consents to Iron Mountain's use of a subcontractor if needed to provide such Services. Beneficiary

warrants that Iron Mountain's use of any materials supplied by Beneficiary to perform the verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.

4. Iron Mountain Responsibilities and Representations.

- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by Authorized Person(s) (as identified in the "**Authorized Person(s)/Notices Table**" below) representing the Depositor or Beneficiary in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all required information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a visual inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B, Iron Mountain will notify Depositor of such discrepancies and notate such discrepancy on the Exhibit B.
- (c) Iron Mountain will provide notice to the Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement.
- (d) Iron Mountain will work with a Party who submits any verification Work Request for Deposit Material covered under this Agreement to either fulfill any standard verification Services Work Request or develop a custom Statement of Work ("**SOW**"). Iron Mountain and the requesting Party will mutually agree in writing to an SOW on terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the paying Party; designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. After the start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth therein. If the verification Services extend beyond those described in Exhibit A, the Depositor shall be a necessary Party to the SOW governing the Services.
- (e) Iron Mountain will hold and protect Deposit Material in physical or electronic vaults that are either owned or under the control of Iron Mountain, unless otherwise agreed to by all the Parties.
- (f) Upon receipt of written instructions by both Depositor and Beneficiary, Iron Mountain will permit the replacement or removal of previously submitted Deposit Material. The Party making such request shall be responsible for getting the other Party to approve the joint instructions.
- (g) Should transport of Deposit Material be necessary in order for Iron Mountain to perform Services requested by Depositor or Beneficiary under this Agreement, Iron Mountain will use a commercially recognized overnight carrier such as Federal Express or United Parcel Service. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier.

5. Payment.

The Party responsible for payment designated in Exhibit A ("**Paying Party**") shall pay to Iron Mountain all fees as set forth in the Work Request ("**Service Fees**"). Except as set forth below, all Service Fees are due within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party during the Term of this Agreement (as defined below). The Paying Party is liable for any taxes (other than Iron Mountain income taxes) related specifically to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice. Any Service Fees not collected by Iron Mountain when due shall bear interest until paid at a rate of one percent (1%) per month (12% per annum) or the maximum rate permitted by law, whichever is less. Notwithstanding the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement.

6. Term and Termination.

- (a) The term of this Agreement is for a period of one (1) year from the Effective Date ("**Initial Term**") and will automatically renew for additional one (1) year terms ("**Renewal Term**") (collectively the "**Term**"). This Agreement shall continue in full force and effect until one of the following events occur: (i) Depositor and Beneficiary provide Iron Mountain with sixty (60) days' prior written joint notice of their intent to terminate this Agreement; (ii) Beneficiary provides Iron Mountain and Depositor with sixty (60) days' prior written notice of its intent to terminate this Agreement; (iii) the Agreement terminates under another provision of this Agreement; or (iv) any time after the Initial Term, Iron Mountain provides a sixty (60) days' prior written notice to the Depositor and Beneficiary of Iron Mountain's intent to terminate this Agreement. If the Effective Date is not specified above, then the last date noted on the signature blocks of this Agreement shall be the Effective Date.
- (b) Unless the express terms of this Agreement provide otherwise, upon termination of this Agreement, Iron Mountain shall return the Deposit Material to the Depositor. Unless otherwise directed by Depositor, Iron Mountain will use a commercially recognized overnight common carrier such as Federal Express or United Parcel Service to return the Deposit Material to the Depositor. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier. If reasonable attempts to return the Deposit Material to Depositor are unsuccessful, Iron Mountain shall destroy the Deposit Material.

- (c) In the event of the nonpayment of undisputed Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice of Iron Mountain's intent to terminate this Agreement. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such written notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to perform the Services under this Agreement (except those obligations that survive termination of this Agreement, which includes the confidentiality obligations in Section 9) so long as any undisputed Service Fees due Iron Mountain under this Agreement remain unpaid.

7. Infringement Indemnification.

Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend and hold Beneficiary and Iron Mountain (the "Indemnified Party") fully harmless against any claim or action asserted against the Indemnified Party (specifically including costs and reasonable attorneys' fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain's proper administration of this Agreement or Beneficiary's use of the Deposit Material, within the scope of this Agreement, infringes any patent, copyright, license or other proprietary right of any third party. When the Indemnified Party has notice of a claim or action, it shall promptly notify Depositor in writing. At its option, Depositor may elect to control defense of such claim or action and may elect to enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of the Indemnified Party without such Party's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.

8. Warranties.

- (a) IRON MOUNTAIN WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER CONSISTENT WITH THE MEASURES IRON MOUNTAIN TAKES TO PROTECT ITS OWN INFORMATION OF A SIMILAR NATURE, BUT IN NO CASE LESS THAN A REASONABLE LEVEL OF CARE. EXCEPT AS SPECIFIED IN THIS SECTION, ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY UPON LEARNING OF ANY CLAIMED BREACH OF ANY WARRANTY AND, TO THE EXTENT ALLOWED BY APPLICABLE LAW, SUCH PARTY'S REMEDY FOR BREACH OF THIS WARRANTY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES WAIVER IN THIS AGREEMENT. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.
- (b) Depositor warrants that all Depositor information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Depositor information during the Term of this Agreement.
- (c) Beneficiary warrants that all Beneficiary information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Beneficiary information during the Term of this Agreement.

9. Confidential Information.

Iron Mountain shall have the obligation to implement and maintain safeguards designed to protect the confidentiality of the Deposit Material. Except as provided in this Agreement Iron Mountain shall not use or disclose the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third Party. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron Mountain will promptly notify the Parties to this Agreement unless prohibited by law. After notifying the Parties, Iron Mountain may comply in good faith with such order. It shall be the responsibility of Depositor or Beneficiary to challenge any such order; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order. Iron Mountain will cooperate with the Depositor or Beneficiary, as applicable, to support efforts to quash or limit any subpoena, at such Party's expense. Any Party requesting additional assistance shall pay Iron Mountain's standard charges or as quoted upon submission of a detailed request.

10. Limitation of Liability.

EXCEPT FOR: (I) ANY CLAIMS OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR TRADEMARK; (II) LIABILITY FOR DEATH OR BODILY INJURY; (III) PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (IV) THE INFRINGEMENT INDEMNIFICATION OBLIGATIONS OF SECTION 7, ALL OTHER LIABILITY RELATED TO THIS AGREEMENT, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO ONE YEAR OF FEES PAID TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS.

11. Consequential Damages Waiver.

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANOTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES (EXCLUDING SUBSTITUTE ESCROW SERVICES), OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

12. General.

- (a) Incorporation of Work Requests. All valid Depositor and Beneficiary Work Requests are incorporated into this Agreement.
- (b) Purchase Orders. In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.
- (c) Right to Make Copies. Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform the Services. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the Party requesting the copies. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (d) Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the Commonwealth of Massachusetts, USA, as if performed wholly within the state and without giving effect to the principles of conflicts of laws.
- (e) Authorized Person(s). Depositor and Beneficiary must each authorize and designate one person whose actions will legally bind such Party ("Authorized Person" who shall be identified in the Authorized Person(s) Notices Table of this Agreement or such Party's legal representative) and who may manage the Iron Mountain escrow account through the Iron Mountain website or written instruction. The Authorized Person for each the Depositor and Beneficiary will maintain the accuracy of their name and contact information provided to Iron Mountain during the Term of this Agreement.
- (f) Right to Rely on Instructions. With respect to Release of Deposit Material or the destruction of Deposit Material, Iron Mountain shall rely on instructions from a Party's Authorized Person(s). In all other cases, Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine and from an Authorized Person(s), officer, or other employee of a Party. Iron Mountain may assume that such representative of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth of, or evaluate the merit of, any statement or representation contained in any notice or document reasonably believed to be from such representative.
- (g) Force Majeure. No Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- (h) Notices. All notices regarding Exhibit C (Release of Deposit Material) shall be sent by commercial express mail or other commercially appropriate means that provide prompt delivery and require proof of delivery. All other correspondence, including invoices, payments, and other documents and communications, may be sent electronically or via regular mail. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice to the last known address of the other Parties that is refused, unclaimed, or undeliverable shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities, or through messenger or commercial express delivery service.
- (i) No Waiver. No waiver of any right under this Agreement by any Party shall constitute a subsequent waiver of that or any other right under this Agreement.
- (j) Assignment. No assignment of this Agreement by Depositor or Beneficiary or any rights or obligations of Depositor or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed. Iron Mountain shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Beneficiary unless Iron Mountain receives clear, authoritative and conclusive written evidence of the change of Parties.
- (k) Severability. In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. If this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for any Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by written notice to the other Parties.

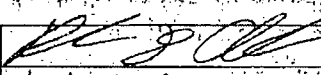
- (l) Independent Contractor Relationship. Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.
- (m) Attorneys' Fees. In any suit or proceeding between the Parties relating to this Agreement, the prevailing Party will have the right to recover from the other(s) its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.
- (n) No Agency. No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (o) Disputes. Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise, any costs incurred by Iron Mountain, including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary.
- (p) Regulations. All Parties are responsible for and warrant, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import; export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement.
- (q) No Third Party Rights. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all the Parties hereto.
- (r) Entire Agreement. The Parties agree that this Agreement, which includes all the Exhibits attached hereto and all valid Work Requests and SOWs submitted by the Parties, is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement. This Agreement may only be modified by mutual written agreement of all the Parties.
- (s) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (t) Survival. Sections 6 (Term and Termination), 7 (Infringement Indemnification), 8 (Warranties), 9 (Confidential Information), 10 (Limitation of Liability), 11 (Consequential Damages Waiver), and 12 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached hereto.

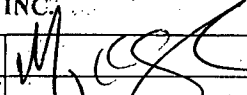
(balance of this page left intentionally blank – signature page follows)

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date by their authorized representatives:

DEPOSITOR

**IRON MOUNTAIN INTELLECTUAL PROPERTY
MANAGEMENT, INC.**

SIGNATURE:	
PRINT NAME:	Robert D. Atter
TITLE:	President
DATE:	12/29/09
EMAIL ADDRESS:	ratte@attdew.com

SIGNATURE:	
PRINT NAME:	Mary K. English
TITLE:	Director of Operations
DATE:	1/4/10
EMAIL ADDRESS:	igmclientservices@ironmountain.com

NOTE: AUTHORIZED PERSONS/NOTICES TABLE, BILLING CONTACT INFORMATION TABLE AND EXHIBITS FOLLOW

DEPOSITOR AUTHORIZED PERSON(S)/NOTICES TABLE

Provide the name and contact information of the Authorized Person under this Agreement. All notices will be sent to the person at the address set forth below. This is required information.

PRINT NAME:	Robert S. Gregory
TITLE:	Senior Vice President, Corporate Strategy
EMAIL ADDRESS	rgregory@atlasdev.com
STREET ADDRESS	26679 West Agoura Road
PROVINCE/CITY/STATE	Calabasas, CA
POSTAL/ZIP CODE	91302
PHONE NUMBER	818 340-7080
FAX NUMBER	818 340-7079

BILLING CONTACT INFORMATION TABLE

Provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

PRINT NAME:	Kerri Galgas
TITLE:	Chief Accounting Officer
EMAIL ADDRESS	kgalgas@atlasdev.com
STREET ADDRESS	26679 West Agoura Road
PROVINCE/CITY/STATE	Calabasas, CA
POSTAL/ZIP CODE	91302
PHONE NUMBER	818 340-7080
FAX NUMBER	818 340-7079

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

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<input type="checkbox"/> Release Deposit Material	Iron Mountain will process a Work Request to release Deposit Material by following the specific procedures defined in Exhibit C "Release of Deposit Material" the Escrow Service Agreement.	\$500	N/A	<input type="checkbox"/> Depositor - OR <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Custom Services	Iron Mountain will provide its Escrow Expert consulting based on a custom SOW mutually agreed to by all Parties.	\$175/hour	N/A	<input type="checkbox"/> Depositor - OR <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Custom Contract Fee	Custom contracts are subject to the Custom Contract Fee, which covers the review and processing of custom or modified contracts.	\$750	N/A	<input type="checkbox"/> Depositor - OR <input type="checkbox"/> Beneficiary

Note: Parties may submit Work Requests via written instruction or electronically through the online portal.

EXHIBIT B DEPOSIT MATERIAL DESCRIPTION

COMPANY NAME: _____ DEPOSIT ACCOUNT NUMBER: 37181

DEPOSIT NAME _____ AND DEPOSIT VERSION _____

(Deposit Name will appear in account history reports)

DEPOSIT MEDIA (PLEASE LABEL ALL MEDIA WITH THE DEPOSIT NAME PROVIDED ABOVE)

MEDIA TYPE	QUANTITY	MEDIA TYPE	QUANTITY
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> 3.5" Floppy Disk	
<input type="checkbox"/> DLT Tape		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DAT Tape		<input type="checkbox"/> Hard Drive / CPU	
		<input type="checkbox"/> Circuit Board	

	TOTAL SIZE OF TRANSMISSION (SPECIFY IN BYTES)	# OF FILES	# OF FOLDERS
<input type="checkbox"/> Electronic Deposit			
<input type="checkbox"/> Other (please describe below): _____			

DEPOSIT ENCRYPTION (Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted? ☐ Yes or ☐ No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit.

Encryption tool name _____ Version _____

Hardware required _____

Software required _____

Other required information _____

DEPOSIT CERTIFICATION (Please check the box below to Certify and Provide your Contact Information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.	<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.
NAME:	NAME:
DATE:	DATE:
EMAIL ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:

Iron Mountain Intellectual Property Management, Inc.
Attn: Vault Administration
2100 Norcross Parkway, Suite 150
Norcross, GA 30071
Telephone: 800-875-5669
Facsimile: 770-239-9201

FOR IRON MOUNTAIN USE ONLY: (NOTED DISCREPANCIES ON VISUAL INSPECTION)	

EXHIBIT C

RELEASE OF DEPOSIT MATERIAL

Deposit Account Number: 37181

Iron Mountain will use the following procedures to process any Beneficiary Work Request to release Deposit Material. All notices under this Exhibit C shall be sent pursuant to the terms of Section 12(h) Notices.

1. Release Conditions. Depositor and Beneficiary agree that a Work Request for the release of the Deposit Material shall be based solely on one or more of the following conditions (defined as "**Release Conditions**"):

- (i) Depositor's breach of the license agreement or other agreement between the Depositor and Beneficiary regulating the use of the Deposit Material covered under this Agreement; or
- (ii) Failure of the Depositor to function as a going concern or operate in the ordinary course; or
- (iii) Depositor is subject to voluntary or involuntary bankruptcy.

2. Release Work Request. A Beneficiary may submit a Work Request to Iron Mountain to release the Deposit Material covered under this Agreement. Iron Mountain will send a written notice of this Beneficiary Work Request within five (5) business days to the Depositor's Authorized Person.

3. Contrary Instructions. From the date Iron Mountain mails written notice of the Beneficiary Work Request to release Deposit Material covered under this Agreement, Depositor Authorized Person(s) shall have ten (10) business days to deliver to Iron Mountain contrary instructions. Contrary Instructions shall mean the written representation by Depositor that a Release Condition has not occurred or has been cured ("**Contrary Instructions**"). Contrary Instructions shall be on company letterhead and signed by a Depositor Authorized Person. Upon receipt of Contrary Instructions, Iron Mountain shall promptly send a copy to Beneficiary's Authorized Person(s). Additionally, Iron Mountain shall notify both Depositor and Beneficiary Authorized Person(s) that there is a dispute to be resolved pursuant to the Disputes provisions of this Agreement. Iron Mountain will continue to store Deposit Material without release pending (i) joint instructions from Depositor and Beneficiary with instructions to release the Deposit Material; or (ii) dispute resolution pursuant to the Disputes provisions of this Agreement; or (iii) receipt of an order from a court of competent jurisdiction.

4. Release of Deposit Material. If Iron Mountain does not receive timely Contrary Instructions from a Depositor Authorized Person, Iron Mountain is authorized to release Deposit Material to the Beneficiary or, if more than one Beneficiary is registered to the deposit, to release a copy of Deposit Material to the Beneficiary. Iron Mountain is entitled to receive any undisputed, unpaid Service Fees due Iron Mountain from the Parties before fulfilling the Work Request to release Deposit Material covered under this Agreement. Any Party may cure a default of payment of Service Fees.

5. Termination of Agreement. This Agreement will terminate upon the release of Deposit Material held by Iron Mountain. For the avoidance of doubt, each enrollment of a Beneficiary made by the respective parties signing the Beneficiary Enrollment Form attached hereto as Exhibit E constitutes and shall be construed as a separate agreement between Iron Mountain, Depositor and the signing Beneficiary.

6. Right to Use Following Release. Beneficiary has the right under this Agreement to use the Deposit Material for the sole purpose of continuing the benefits afforded to Beneficiary by the License Agreement. Notwithstanding, the Beneficiary shall not have access to the Deposit Material unless there is a release of the Deposit Material in accordance with this Agreement. Beneficiary shall be obligated to maintain the confidentiality of the released Deposit Material.

EXHIBIT D

AUXILIARY DEPOSIT ACCOUNT TO ESCROW AGREEMENT

Deposit Account Number: 37181

Auxiliary Account Number _____

_____, ("Depositor"), and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain") have entered into the above referenced Escrow Agreement ("Agreement"). Pursuant to that Agreement Beneficiary or Depositor may create additional deposit accounts ("Auxiliary Deposit Account") for the purpose of holding additional Deposit Material in a separate account which Iron Mountain will maintain separately from other deposit accounts under this Agreement. The new account will be referenced by the following name: _____ ("Deposit Account Name").

Pursuant to the Agreement, Depositor may submit material to be held in this Auxiliary Deposit Account by submitting a properly filled out Exhibit B with the Deposit Material to Iron Mountain. For avoidance of doubt, Beneficiary's rights and obligations relative to the Deposit Material held in any deposit account under this Agreement are governed by the express terms of the Agreement; this form does not provide any additional rights in the Deposit Material.

The undersigned hereby agrees that all terms and conditions of the above referenced Escrow Agreement will govern this Auxiliary Deposit Account. The termination or expiration of any other deposit account will not affect this account.

PAYING PARTY COMPANY NAME: _____

BILLING CONTACT INFORMATION TABLE

All Invoices for Deposit Account Fees will be sent to the contact set forth below.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	

DEPOSITOR

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	ipmclientservices@ironmountain.com

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

EXHIBIT E

BENEFICIARY ENROLLMENT FORM

Depositor and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"), hereby acknowledge that

BENEFICIARY COMPANY NAME: _____ is the **Beneficiary** referred to in the Escrow Agreement that supports **Deposit Account Number:** _____ with Iron Mountain as the escrow agent. **Beneficiary** hereby agrees to be bound by all provisions of such Agreement.

AUTHORIZED PERSON(S)/NOTICES TABLE

Please provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All Notices will be sent electronically or through regular mail to the appropriate address set forth below. Please complete all information as applicable. Incomplete information may result in a delay of processing.

BENEFICIARY		DEPOSITOR	
PRINT NAME:		PRINT NAME:	
TITLE:		TITLE:	
EMAIL ADDRESS		EMAIL ADDRESS	
STREET ADDRESS		STREET ADDRESS	
PROVINCE/CITY/STATE		PROVINCE/CITY/STATE	
POSTAL/ZIP CODE		POSTAL/ZIP CODE	
PHONE NUMBER		PHONE NUMBER	
FAX NUMBER		FAX NUMBER	

PAYING PARTY COMPANY NAME: _____

BILLING CONTACT INFORMATION TABLE

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	
PURCHASE ORDER #	

DEPOSITOR

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

BENEFICIARY

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	ipmclientservices@ironmountain.com

All notices to Iron Mountain Intellectual Property Management, Inc. should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

EXHIBIT Q
ESCROW DEPOSIT QUESTIONNAIRE

Introduction

From time to time, technology escrow beneficiaries may exercise their right to perform verification services. This is a service that Iron Mountain provides for the purpose of validating relevance, completeness, currency, accuracy and functionality of deposit materials.

Purpose of Questionnaire

In order for Iron Mountain to determine the deposit material requirements and to quote fees associated with verification services, a completed deposit questionnaire is requested. It is the responsibility of the escrow depositor to complete the questionnaire.

Instructions

Please complete the questionnaire in its entirety by answering every question with accurate data. Upon completion, please return the completed questionnaire to the beneficiary asking for its completion, or e-mail it to Iron Mountain to the attention of verification@ironmountain.com.

Escrow Deposit Questionnaire

General Description

1. What is the general function of the software to be placed into escrow?
2. On what media will the source code be delivered?
3. What is the size of the deposit in megabytes?

Requirements for the Execution of the Software Protected by the Deposit

1. What are the system hardware requirements to successfully execute the software? (memory, disk space, etc.)
2. How many machines are required to completely set up the software?
3. What are the software and system software requirements, to execute the software and verify correct operation?

Requirements for the Assembly of the Deposit

1. Describe the nature of the source code in the deposit. (Does the deposit include interpreted code, compiled source, or a mixture? How do the different parts of the deposit relate to each other?)
2. How many build processes are there?
3. How many unique build environments are required to assemble the material in the escrow deposit into the deliverables?
4. What hardware is required for each build environment to compile the software? (including memory, disk space, etc.)
5. What operating systems (including versions) are used during compilation? Is the software executed on any other operating systems/version?
6. How many separate deliverable components (executables, share libraries, etc.) are built?
7. What compilers/linkers/other tools (brand and version) are necessary to build the application?
8. What, if any, third-party libraries are used to build the software?
9. How long does a complete build of the software take? How much of that time requires some form of human interaction and how much is automated?
10. Do you have a formal build document describing the necessary steps for system configuration and compilation?
11. Do you have an internal QA process? If so, please give a brief description of the testing process.
12. Please list the appropriate technical person(s) Iron Mountain may contact regarding this set of escrow deposit materials.

Please provide your technical verification contact information below:

COMPANY:	
SIGNATURE:	
PRINT NAME:	
ADDRESS 1:	
ADDRESS 2:	
CITY, STATE, ZIP	
TELEPHONE:	
EMAIL ADDRESS:	

For additional information about Iron Mountain Technical Verification Services, please contact Manager of Verification Services at 800-875-5669 or by e-mail at <mailto:verification@ironmountain.com>

EXHIBIT O

INTELLECTUAL PROPERTY ASSIGNMENT

The County of Los Angeles, Department of Public Health (the "Grantor"), and Atlas Database Software Corporation, d/b/a Atlas Development Corporation (the "Grantee"), are parties to an agreement entitled "Software and Services Agreement for Department of Public Health" entered into effective as of _____, 2011 (the "Agreement").

WHEREAS, Grantor and Grantee previously entered into that certain Agreement No. H-209231 dated May 19, 1998, as amended, and that certain Agreement No. H-701820 effective as of September 1, 2005, as amended (together with Agreement No. H-209231, as amended, the "Development Agreements"), pertaining to Contractor's development and delivery of the "Visual CMR Software" (as defined therein) and the enhancements and modifications thereto described in the Development Agreements (collectively referred to in this Agreement as "vCMR Software");

WHEREAS, Grantor and Grantee previously entered into that certain Agreement No. H-207543 dated April 2, 2002, as amended (the "Marketing Agreement," and collectively with the Development Agreement, the "Prior Agreements");

WHEREAS, Grantor and Grantee are also parties to that certain Agreement No. DPO-HS-10369121-1 for Infection Control System dated July 13, 2010 (the "County ICS Agreement"), pertaining to the software program known as "Guardian" (as further defined and described in the ICS Agreement, the "Guardian Software");

Now therefore, for good and valuable consideration, receipt of which is hereby acknowledged, the undersigned Grantor does hereby transfers, conveys and assigns to the Grantee and its successors and assigns, without representation or warranty of any kind or nature, except as expressly set forth in the Agreement, in perpetuity and throughout the world, any and all of Grantor's right, title, and interest, if any, in and to: (a) the vCMR Software and all enhancements and modifications thereto, including those components of the Guardian Software owned by Grantor, in each case, developed under any of the Prior Agreements, regardless of whether developed at Grantor's suggestion or with Grantor's input; and (b) all intellectual property rights therein, including any copyrights, patent rights, trademarks, trade secrets, trade dress, moral rights, or other proprietary rights and the rights to obtain any applicable renewals and/or extensions thereof, anywhere in the world.

Without limiting the generality of the foregoing, the aforesaid conveyance and assignment shall include, but is not limited to, all prior choses-in-action, at law, in equity and otherwise, the right to recover all damages and other sums, and the right to other relief allowed or awarded at law, in equity, by statute or otherwise.

(Signatures on following page)

NAME OF GRANTOR: County of Los Angeles, Department of Public Health

DATE: ____/____/2011

AUTHORIZED SIGNATORY:

By: _____

(Signature)

(Print Name)

STATE OF CALIFORNIA)

) ss.

COUNTY OF LOS ANGELES)

On _____, 20 ____, before me, the undersigned, a Notary Public in and for the State of California, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual that executed the within Assignment of Intellectual Property Rights.

WITNESS my hand and official seal.

NOTARY PUBLIC

EXHIBIT P

TRANSFERRED SERVERS

ISWest Data Center

Model	S/N Service tag	Computer name	Location	Comments
HP DL380	USE520A5RY	CMR DB	Agoura Data Center	DB server for VCMR
HP DL380	USE520A5RR	CMRWeb	Agoura Data Center	Web server for VCMR
HP DL380	EA69LDN433	ELRCom	Agoura Data Center	Data Receiving server in DMZ
Dell PowerEdge 2950	7808FC1	LAPublicHealth	Agoura Data Center	Backup server and domain controller
Dell PowerEdge 2950	G10PDC1	LA Syn Com	Agoura Data Center	Syndromic server
Dell PowerEdge 1950	48ZPDC1	LACDHSWEB	Agoura Data Center	Web redirector server (myphd.net)
Dell PowerEdge 2850	FNHHR91	LAECIWEB	Agoura Data Center	
Dell PowerEdge 1850	5Q5DQ91	LAstestWeb	Agoura Data Center	Testing web server for VCMR
Dell PowerEdge 1850	56W92A	LAPHFax	Agoura Data Center	Fax server and domain controller
Dell PowerEdge 2850	2YGKQ91	LAstestDB	Agoura Data Center	Testing DB server for VCMR
Dell PowerEdge 2850	3YGKQ91	LAECIDB	Agoura Data Center	
Cisco firewall	JMX1049K254		Agoura Data Center	Primary
Cisco firewall	JMX1049K24Q		Agoura Data Center	Secondary
Netgear switch			Agoura Data Center	DMZ switch
Netgear switch			Agoura Data Center	DB zone switch
Promise ISCSI SAN unit	P90006N00063		Agoura Data Center	Used for live database and Syndromic data backup
Promise ISCSI SAN unit	RA0008906415		Agoura Data Center	Used for testing databases
Quantum Superloader Tape Backup device	FA0806BHF00233		Agoura Data Center	For data backup to tapes
HP Proliant DL 380 G4	2UX633029U		Agoura Data Center	DB Back-Up Server
HP DL380	D347LDN4H337	LAWeb	Las Vegas Data Center	Shadow hot-site Web server
HP Proliant DL380 G4	USE530C2HM	Las Vegas	Las Vegas Data Center	Shadow hot-site DB server

Exhibit II

Paragraph 8.0 (Change Orders and Amendments) to the Software and Services Agreement

Under Paragraph 8.2 (Change Orders) of the Software and Services Agreement, the County's project director, or such person's designee, may execute change orders on behalf of the County, effecting any change that does not affect the scope of work, term, maximum contract sum, payments or any term or condition of the Software and Services Agreement, subject in all cases to the availability of funding. Such changes may include changes which require additional software and/or as-needed other professional services with respect to the vCMR System; provided that any such change order (a) uses the pool of dollars included in the Software and Services Agreement for such work (Pool Dollars), (b) includes all information required under Task 16 (Provide As-Needed Additional Work) of Exhibit B (Statement of Work) to the Software and Services Agreement, (c) does not require amending any term or condition of the Software and Services Agreement, including any exhibit or attachment, and (d) has obtained the requisite internal County approvals as specified in the Software and Services Agreement.

Under Paragraph 8.3 (Amendments) of the Software and Services Agreement, the Director of DPH may execute amendments on behalf of County, which do any of the following, subject in all cases (a) to the availability of funding and (b) obtaining the requisite internal County approvals as specified in the Software and Services Agreement:

- Make implementation of interconnectivity of the vCMR System with the State of California's CalREDIE system part of upgrading the vCMR Software to version 10.0 (see Exhibit B (Statement of Work));
- Adjust the Pool Dollars among Fiscal Years;
- Extend the date by which Atlas is required to achieve County's acceptance of all work associated with upgrading the vCMR Software to version 10.0;
- Update the exhibits and/or attachments during implementation as is necessary to accurately reflect the as-built vCMR System, once the vCMR Software has been upgraded to version 10.0;
- Engage Atlas to provide additional software and/or other professional services with respect to the vCMR System that requires amending any term or condition of the Software and Services Agreement, including any exhibit or attachment; provided that any such Amendment (a) uses then-available Pool Dollars and (b) includes all information required under Task 16 (Provide As-Needed Additional Work) of Exhibit B (Statement of Work);
- Implement an increase in maintenance fees, support fees and/or hosting fees to reflect an annual cost of living adjustment, if applicable;
- Implement reductions under Paragraph 11.0 (County's Obligation for Future Fiscal Years; Budget Reductions);
- Consent to an assignment or delegation under Paragraph 38.0 (Assignment by Contractor) of Exhibit A (Additional Terms and Conditions).

CIO ANALYSIS

APPROVAL OF NEW SOFTWARE AND SERVICES AGREEMENT WITH ATLAS DATABASE SOFTWARE CORPORATION DBA ATLAS DEVELOPMENT CORPORATION

CIO RECOMMENDATION: ☒ APPROVE ☐ APPROVE WITH MODIFICATION
☐ DISAPPROVE

Contract Type:

☒ New Contract ☐ Contract Amendment ☐ Contract Extension
☐ Sole Source Contract ☐ Hardware Acquisition ☐ Other

New/Revised Contract Term: Base Term: 7 Yrs # of Option Yrs 3

Contract Components:

☒ Software ☐ Hardware ☐ Telecommunications
☒ Professional Services

Project Executive Sponsor: Jonathan E. Fielding, M.D., M.P.H., Director and Health Officer

Budget Information :

Y-T-D Contract Expenditures	\$0
Requested Contract Amount	\$3,129,703.50
Aggregate Contract Amount	\$3,129,703.50

Project Background:

Yes	No	Question
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is this project legislatively mandated? DPH is required under federal law to perform the types of services provided and managed by the vCMR System
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is this project subvented? If yes, what percentage is offset? Project will be 100% funded through grants from the Federal Centers for Disease Control (CDC) in varying amounts over the life of this agreement.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is this project/application applicable to (shared use or interfaced) other departments? If yes, name the other department(s) involved.

Strategic Alignment:

Yes	No	Question
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is this project in alignment with the County of Los Angeles Strategic Plan?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is this project consistent with the currently approved Department Business Automation Plan?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project's technology solution comply with County of Los Angeles IT Directions Document?

<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project technology solution comply with preferred County of Los Angeles IT Standards?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	This contract and/or project and its milestone deliverables must be entered into the Information Technology Tracking System (ITTS).

Project/Contract Description:

Department of Public Health (DPH) is requesting authorization to enter into a new Software and Services Agreement with Atlas Database Software Corporation (Atlas), which will supersede and replace its current software development and marketing agreements with Atlas as they relate to the Visual Confidential Morbidity Reporting (vCMR) system. In addition to establishing entirely new terms and conditions for DPH's ongoing use of the vCMR System and all of its components, this new Agreement will transfer all County ownership for the vCMR Software to Atlas in exchange for significant financial credits that applied to DPH contract obligations, no-cost perpetual licenses for the use of all vCMR-related software, and discounted rates for maintenance, support and hosting services over the entire term of the Agreement, including option years.

Background:

DPH is responsible for monitoring infectious diseases occurring within Los Angeles County. In May 1998, the Board approved an Agreement with Atlas to develop the vCMR System for surveillance response and reporting system and to license other software products included in the vCMR System. The costs incurred under this Agreement and its subsequent Amendments have all been funded by Federal Centers Disease Control (CDC) grant funding.

In 2002, DPH obtained Board approval to enter into a sole source marketing agreement with Atlas, which would allow Atlas to market the vCMR Software, enter into sublicensing and services agreements with other jurisdictions, and to make modifications and enhancements to the vCMR Software under those sublicensing agreements. In exchange, Atlas agreed to pay the County royalties amounting to 10% of the gross monthly revenue it received as a result of the sale of licenses to other jurisdictions for the use of the vCMR Software, as well as any proceeds Atlas received for services it provided under those sublicensing agreements. Since the initial marketing agreement, there have been four amendments, permitting Atlas to continue its sale of licenses and services to vCMR and extending the royalties arrangement.

From the inception of the marketing agreement in April 2002 through December 2009, DPH had only received a total of \$313,992 in royalties. Over the nine years that this arrangement has been in place, Atlas has developed additional enhancements to the vCMR Software for which DPH has not provided funding. As a result, DPH has found monitoring and management of the marketing agreement increasingly complex, requiring an inordinate commitment of staff resources and often resulting in significant disagreements with Atlas over what components of vCMR were subject to royalty payment and what components were not.

Accordingly, DPH determined that it was in the best interests of the County to enter into an agreement that would transfer any and all rights of ownership in the vCMR Software to Atlas, thereby eliminating any further royalty agreement between Atlas and DPH. In exchange, Atlas

would provide the County consideration that would fairly compensate the County for the value of those ownership rights.

Project Justification/Benefits:

This proposed Agreement affords the County considerable value in the form of credits, a variety of discounts on Atlas products licenses and other services, conversion to vCMR Version 10 at no cost, and price increase protections in an amount that has been determined to fairly compensate the County for the value of the software. It will also eliminate the necessity for DPH to expend considerable staff resources to continuously monitor the vendor's activities and performance under the current marketing agreement. Additional benefits to the County include Atlas accepting responsibility for maintenance of the software to ensure compliance with laws, regulations, and standards; Atlas accountability for specific service levels with regard to application performance and availability; and access to system improvements developed on behalf of other Atlas customers.

Project Metrics:

DPH has done a considerable amount of work to attempt to determine a fair and equitable value of the ownership rights the County has to the vCMR Software. With the assistance of County Counsel and the Chief Information Office (CIO), it has engaged in lengthy negotiations with Atlas to arrive at what has been determined to be a fair and equitable agreement, providing mutual value to both the County and Atlas.

Impact on Service Delivery or Department Operations if Proposal is Not Approved:

If this proposal is not approved, DPH will either have to extend the current marketing agreement or it could decide not to extend the marketing agreement, thereby precluding Atlas from marketing the components of the vCMR Software product that are owned by the County.

Continuing the Marketing Agreement would likely result in considerable ongoing DPH resources to monitor agreement, which has yielded relatively little royalty revenue in return. Moreover, it would likely result in the continuation of disputes between DPH and Atlas, resulting in a less-than-ideal relationship between the County and Atlas.

Terminating the marketing agreement could very likely result in Atlas pursuing legal remedies that would permit them to continue to market and sell the vCMR Software and attendant services, potentially costing the County far more in litigation costs than it could ever expect to receive in royalties.

Alternatives Considered:

No other alternatives are currently being considered.

Project Risks:

The proposed Agreement represents little risk to the County. The vCMR System availability and performance should be enhanced by the upgraded system server equipment and the strengthened service level agreement. The current hosting arrangement already meets County's minimum standards to address HIPAA and HITECH requirements and concerns. Accordingly, no additional security issues requiring the County's Chief Information Security Officer's (CISO) review have resulted.

Risk Mitigation Measures:

No risk mitigation measures are deemed necessary.

Financial Analysis:

The total Contract Sum of **\$3,129,703.50** will be apportioned as follows:

Description/Category	Amount
Maintenance and Support Fees	\$ 875,000.00
Hosting Fees	1,484,000.00
Professional Services	1,587,379.50
Credits given to County by Atlas	(816,676.00)
Maximum Contract Sum	\$3,129,703.50

Additionally, under the terms of this Agreement, in exchange for the County's transfer of all rights it currently has to the vCMR Software, Atlas will provide to the County over the initial term of this Agreement:

- a) A no-cost, perpetual, royalty-free license to use the vCMR System and all subsequent revisions, including all work associated with upgrading and migrating the County to new software versions and implementing full interconnectivity to the State of California's CalREDIE system;
- b) A credit which may be applied by the County in equal annual installments toward the fees owed by the County for maintenance, support and hosting services, as well as other professional services DPH may require of the vendor over the course of this Agreement;
- c) Discounted rates for maintenance services DPH pays under its existing software development agreement with Atlas;
- d) Discounted rates for enhanced hosting services for the vCMR System, over and above the normal level of services provided by Atlas; and
- e) Discounted rates for as-needed other professional services for work provided by Atlas for desired enhancements to the vCMR Software system.

Should the County elect to exercise the three year option terms, Atlas will additionally provide:

- a) Discounted rates for maintenance services of the vCMR System equal to the Federal General Services Administration rates in effect on the date of this Agreement, subject to an annual cost-of-living adjustment in accordance with Board Policy 5.070;

- b) An annual credit for each option term equal to 50% of the discounted rate for maintenance services;
- c) Continuation of the enhanced hosting services discounted rates, subject to an annual cost-of-living adjustment in accordance with Board Policy 5.070; and
- d) Continuation of discounted rates for as-needed other professional services for the vCMR System.

The total value of credits, discounts and other financial consideration the County would receive over the seven-year base term of this Agreement as compensation for its transfer of all rights of ownership of the vCMR Software to Atlas is approximately \$3,776,075 (see table below).

Description	Dollar Value
Professional services credits	\$ 495,000
Credits the County may use in equal installments annually during Years 1-7 of the Agreement to offset payments owed for maintenance, support, hosting, and/or professional services under the new Agreement (included in the cost table above)	816,676
Discounted rates for vCMR System Maintenance Services (approximately \$261,228 per year) from rates paid under the current County Agreement	1,828,596
Annual credits for Maintenance Services for each option year of three option years (\$205,701 for Year 8; \$211,873 for Year 9; and \$218,229 for Year 10)	635,803
Total	\$ 3,776,075

CIO Concerns:

The CIO has been involved from the beginning of this project in the development of all Agreement-related documents as well as actively participating in the County's negotiations with Atlas throughout and has no concerns with the approval of this Agreement.

CIO Recommendations:

The CIO recommends approval of this Agreement.

CIO APPROVAL

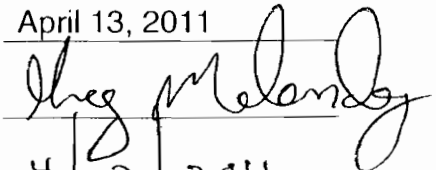
Date Received: March 14, 2011

Prepared by: Earl Bradley

Date: April 13, 2011

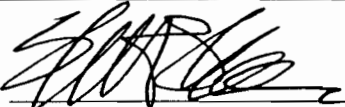
Approved:

Date:


4/27/2011

SOLE SOURCE CHECKLIST

ATLAS DATABASE SOFTWARE CORPORATION dba ATLAS
DEVELOPMENT CORPORATION

Check (✓)	<p align="center">JUSTIFICATION FOR SOLE SOURCE PROCUREMENT OF SERVICES</p> <p><i>Identify applicable justification and provide documentation for each checked item.</i></p>
✓	<p>➤ Only one bona fide source for the service exists; performance and price competition are not available. See description below under "Other reason."</p>
	<p>➤ Quick action is required (emergency situation) Effective on Board approval for an initial term of seven years.</p>
	<p>➤ Proposals have been solicited but no satisfactory proposals were received.</p>
	<p>➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.</p>
	<p>➤ Maintenance service agreements exist on equipment which must be serviced by the authorized manufacturer's service representatives.</p>
	<p>➤ It is most cost-effective to obtain services by exercising an option under an existing contract.</p>
	<p>➤ It is the best interest of the County (e.g., administrative cost savings, too long a learning curve for a new service provider, etc.).</p>
✓	<p>Other reason: In 1998, Atlas was awarded an initial sole source agreement because of its proprietary rights to the only available Graphical User Interface (GUI) for the County's Automated Vital Statistical System (AVSS). Under the existing Software Agreement, Atlas maintains and supports the Visual Confidential Morbidity Report (vCMR) communicable disease reporting system. The New Agreement with Atlas will replace two existing sole-source agreements (H-701820 and H-207543) and will change the structure of the County's relationship with Atlas by transferring the County's rights in the vCMR Software, as modified and enhanced, to Atlas in exchange for a perpetual and royalty-free license to such software together with a number of other rights, concessions, and valuable consideration. Because the two existing agreements are of a sole-source nature, this can only be accomplished through a sole-source replacement Agreement.</p>
	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  _____ Sheila Shima Deputy Chief Executive Officer, CEO </div> <div style="text-align: right;"> <p>4/27/11</p> _____ Date </div> </div>